Based on the testimony and evidence presented on the record at the public hearing:

If the proposed plans do not comply with applicable BMC review standards:
- On February 24, 2009, Council continued the public hearing on this case to give staff more time to work on the various agreements.
- On March 28, 2006, Council approved the Anthem – West PUD Plan, an amendment to the Preble Creek PUD.
- On January 26, 2009, the Land Use Review Commission held a public hearing for the proposed PUD amendment. The Land Use Review Commission recommended
- Approval of a Comprehensive Plan Land Use Map amendment and an I-25 Sub-Area Plan Land Use Plan amendment to change the 0.52-acre Welcome Lodge tract (Tract W-53) from the Open Lands designation to the Mixed-Use Commercial designation.
- Approval of an amendment to the development agreement to allow personal transporters on public trails within the Anthem – West PUD Plan area.
- On January 26, 2009, the Land Use Review Commission held a public hearing for the proposed PUD amendment. The Land Use Review Commission recommended approval of the amendment with the following conditions: 1) that the portion of the request related to allowing personal transporters on public trails within the Anthem – West PUD Plan be denied; and 2) that the portion of the request related to allowing neighborhood electric vehicles on public streets in Anthem Ranch also be denied. The Commission’s recommendation was adopted by a vote of six in favor, one against.

Prior Council Action
- On March 28, 2006, Council approved the Anthem – West PUD Plan, an amendment to the Preble Creek PUD Plan.
- On February 24, 2009, Council continued the public hearing on this case to give staff more time to work on the various agreements.

Financial Considerations
- Development of this site is consistent with the adopted Long Range Financial Plan.

Alternatives
Based on the testimony and evidence presented on the record at the public hearing:
- If the proposed application complies with applicable Broomfield Municipal Code (BMC) review standards and is consistent with the intent of the Comprehensive Plan:
  - Approval.
- If the proposed plans do not comply with applicable BMC review standards:
  - Remand the case to the Land Use Review Commission for additional review and recommendations;
  - Postpone action on the resolution and continue the hearing to a date certain; or
  - Direct the City and County Attorney to draft findings to support denial.

Proposed Actions/Recommendations
- Hold the public hearing.
- Following and subject to the results of the public hearing, if Council wishes to approve the application, it is recommended...
- That Resolution No. 2009-27 be adopted.
- That Resolution No. 2009-44 be adopted.
- That Resolution No. 2009-45 be adopted.
- That Resolution No. 2009-47 be adopted.
- That Resolution No. 2009-48 be adopted.
- That Ordinance No. 1916 be adopted on first reading and ordered published in full;
- That a public hearing on the ordinance be scheduled for 6:00 p.m., April 14, 2009, in the Council Chambers at the City and County Building; and
- That a second and final reading on the ordinance be scheduled for April 14, 2009, following the public hearing.
# STAFF REPORT

## PROPOSED ANTHEM – WEST PUD PLAN AMENDMENT

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</table>
I. SUMMARY OF APPLICATION

Applicant and Property Owner
The applicant is the Pulte Home Corporation. Parcels affected by the proposed amendment are owned by the Pulte Home Corporation, the City and County of Broomfield, and TCLM, LLC (the McWhinney Corporation), owners of the Welcome Lodge building.

Proposed Development Plans
The applicant requests approval of the following items:

1. A proposed PUD Plan amendment which includes changes to the graphics and text of the approved Anthem – West PUD Plan;
2. A proposed Comprehensive Plan Land Use Map amendment which changes 0.52 acres from open lands to mixed-use commercial;
3. A proposed I-25 Sub-Area Plan Land Use Plan amendment which changes 0.52 acres from open lands to mixed-use commercial;
4. An amendment to the Anthem West PUD Managed Growth Development Agreement;
5. An amendment to the Anthem West Vesting Agreement for Preble Creek PUD;
6. A Service Plan amendment for the Northwest Metropolitan District #3 for the Anthem property;
7. An Intergovernmental Agreement between the Northwest Metropolitan District #3 and the City and County of Broomfield;
8. An Operations and Maintenance Agreement to establish ownership and maintenance responsibility for each open lands tract in the Anthem – West PUD Plan area; and
9. A Revocable Permit to allow specific structures on public property or within rights-of-way within the Anthem – West PUD Plan area.

Relationship to City Council’s 2009 Priorities
Council adopted a 2009 On-Going Priority related to the preservation of property values and the quality of neighborhoods. The Anthem – West PUD Plan is a planned community, which emphasizes landscaping, architecture, amenities, and development regulations to help assure quality and the preservation of value in built neighborhoods within the Anthem development.

Concept Review
On September 16, 2008, Council reviewed a concept plan for the McWhinney property (or MXD PUD) located on the east side of the Community Ditch. According to the concept “This...Plan submittal proposes revisions to the current approved PUD (Preble Creek PUD First Amendment approved August 20, 2003) and Anthem West PUD approved April 28, 2006) in order to respond to the new vision for the property.” The separation of the Anthem – West PUD Plan and the McWhinney PUD Plan, also known as the bifurcation, was anticipated with
the McWhinney concept review. Council did not discuss any specific details of the Anthem – West PUD Plan amendment at the concept review.

According to the Broomfield Municipal Code, prior to an official submittal of an amendment to a PUD plan, the applicant shall submit a concept plan to the Council for review unless the City and County Manager waives the requirement in accordance with the code provisions. An independent concept review for the Anthem – West PUD Plan First Amendment was waived in accordance with Broomfield Municipal Code Section 17-38-030 (see Section VII of this memorandum).

II. ZONING, PREVIOUSLY APPROVED DEVELOPMENT PLAN FOR THE PROPERTY AND STATUS OF DEVELOPMENT

Zoning and Approved PUD Plan for the Property

The property is zoned PUD. In 1988, Broomfield annexed the property. In 2001, Council approved the Preble Creek PUD Plan for the property. In 2006, Council approved the Anthem – West PUD Plan, which revised the vision for the western half of the Preble Creek PUD Plan.

The following map shows the approved Anthem – West PUD Plan.
Status of Development

The Anthem – West PUD plan allows a maximum of 1,700 dwelling units in the Ranch (age-restricted portion of the development) and a maximum of 1,800 dwelling units in the Highlands (non-age-restricted portion of the development) for a total of 3,500 dwelling units. To date, the City Council has approved 791 dwelling units in the Highlands (east side of Lowell Boulevard) and 1,295 dwelling units in the Ranch (west side of Lowell Boulevard). As of February 28, 2009, 557 single-family houses have been completed in the Ranch and 369 single-family houses have been completed in the Highlands for a total of 926 single-family houses.

The following chart summarizes the status of development in Anthem – West.

Buildout of Anthem - West
(Ranch and Highlands)
The following map shows the location of existing and proposed filings in the Anthem – West PUD Plan area.
The table below provides additional detail regarding building permit activity in the Anthem – West PUD area as of February 28, 2009.

<table>
<thead>
<tr>
<th>Filing Number</th>
<th>Description*</th>
<th>Status**</th>
<th>Building Permits Issued</th>
<th>Certificates of Occupancy Issued</th>
<th>Estimated Population at Build-Out</th>
<th>% of Total Estimated Population (8,800)</th>
<th>Number of Residential Lots Approved</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>ROW</td>
<td>AC</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>2</td>
<td>Public Uses</td>
<td>A</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>1</td>
<td>Pump Station</td>
<td>AC</td>
<td>NA</td>
<td>NA</td>
<td>0</td>
<td>0</td>
<td>NA</td>
</tr>
<tr>
<td>2</td>
<td>Welcome Lodge</td>
<td>AC</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>NA</td>
</tr>
<tr>
<td>3</td>
<td>Model Homes</td>
<td>AC</td>
<td>9</td>
<td>9</td>
<td>38</td>
<td>0</td>
<td>19</td>
</tr>
<tr>
<td>4</td>
<td>Highway Buffer</td>
<td>AUC</td>
<td>152</td>
<td>151</td>
<td>286</td>
<td>3</td>
<td>152</td>
</tr>
<tr>
<td>9</td>
<td>SFD Homes</td>
<td>AC</td>
<td>342</td>
<td>342</td>
<td>643</td>
<td>7</td>
<td>342</td>
</tr>
<tr>
<td>10</td>
<td>Open Area</td>
<td>A</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>11</td>
<td>Open Area / Rec. Ctr.</td>
<td>AUC</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>NA</td>
</tr>
<tr>
<td>12</td>
<td>SFD Homes</td>
<td>AUC</td>
<td>83</td>
<td>55</td>
<td>621</td>
<td>7</td>
<td>330</td>
</tr>
<tr>
<td>14</td>
<td>SFD Homes</td>
<td>AUC</td>
<td>0</td>
<td>0</td>
<td>120</td>
<td>1</td>
<td>64</td>
</tr>
<tr>
<td>17</td>
<td>ROW</td>
<td>P</td>
<td>0</td>
<td>0</td>
<td>730</td>
<td>8</td>
<td>388</td>
</tr>
<tr>
<td>22</td>
<td>SFD Homes</td>
<td>P</td>
<td>0</td>
<td>0</td>
<td>666</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>21</td>
<td>SFD Homes</td>
<td>A</td>
<td>0</td>
<td>0</td>
<td>765</td>
<td>9</td>
<td>255</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td></td>
<td></td>
<td>987</td>
<td>929</td>
<td>5,498</td>
<td>62%</td>
<td>2,068</td>
</tr>
</tbody>
</table>

* MF = Multi-Family  ** A = Approved
ROW = Right of Way  AC = Approved and Constructed
SFA = Single Family Attached  AUC = Approved, Under Construction
SFD = Single Family Detached  P = Proposed
NA = Not Applicable
The following table provides a brief summary of the timeline of key milestones achieved and ongoing for Anthem – West.

<table>
<thead>
<tr>
<th>Prior Approvals</th>
<th>Current Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>• On November 16, 2004, Council held a concept review for the residential areas</td>
<td>• March 10, 2009, The Anthem – West PUD Plan First Amendment, Comprehensive Plan amendment, I-25 Sub-Area Plan amendment, and various agreements to separate the Pulte property from the McWhinney property, allow Neighborhood Electric Vehicles on public streets west of Lowell Boulevard within the limits of the PUD Plan (subject to Council approval of an ordinance to allow Neighborhood Electric Vehicles on a neighborhood-by-neighborhood basis), allow personal transporters on all public trails and sidewalks within the limits of the PUD Plan, and other items consistent with developments in the area.</td>
</tr>
<tr>
<td>• On March 14, 2005, Council approved the SDP and Final Plat for Anthem Filing No. 6, the 20-lot model home village for the Highlands portion of the Preble Creek development project.</td>
<td></td>
</tr>
<tr>
<td>• On March 22, 2005, Council approved the SDP and Final Plat for Anthem Filing No. 2, the 4,389 square foot Welcome Lodge building. Council also approved a PUD Plan text amendment to change 0.52 acres from employment to community center.</td>
<td></td>
</tr>
<tr>
<td>• On April 26, 2005, Council approved the SDP and Final Plat for Anthem Filing No. 3, the 19-lot model home village for the active adult site (Del Webb portion) of the Preble Creek development project.</td>
<td></td>
</tr>
<tr>
<td>• On July 25, 2005, Council approved the SDP and Final Plat for Anthem Filing No. 8 – the first neighborhood in the Highlands – a 203-lot single-family neighborhood located south of Indian Peaks Parkway and east of Lowell Boulevard.</td>
<td></td>
</tr>
<tr>
<td>• On August 23, 2005, Council approved the SDP and Final Plat for Filing No. 7, a 152-lot subdivision surrounding the model home village (Anthem Filing No. 3).</td>
<td></td>
</tr>
<tr>
<td>• On October 25, 2005, Council approved the SDP and Final Plat for Filing No. 9, a 364-lot subdivision at the northwest corner of Anthem Ranch (later reduced to 342 lots).</td>
<td></td>
</tr>
<tr>
<td>• On March 28, 2006, Council approved the Anthem West Planned Unit Development (PUD) Plan, an amendment to the Preble Creek PUD Plan.</td>
<td></td>
</tr>
<tr>
<td>• On May 23, 2006, Council approved the SDP and Final Plat for Anthem Filing No. 13, a 313-lot single-family neighborhood located north of Indian Peaks Parkway and east of Lowell Boulevard.</td>
<td></td>
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<tr>
<td>• On May 23, 2006, Council approved the SDP and Final Plat for Anthem Filing No. 11, the Ranch recreation center located near the middle of the Ranch development.</td>
<td></td>
</tr>
<tr>
<td>• On January 9, 2007, Council approved the SDP and Final Plat for Anthem Filing No. 12, a 335-lot subdivision south of Filing No. 9 (later reduced to 330 lots).</td>
<td></td>
</tr>
<tr>
<td>• On June 12, 2007, Council approved the SDP and Final Plat for Anthem Filing No. 19, the Highlands recreation center located south of Parkside Drive and east of Lowell Boulevard.</td>
<td></td>
</tr>
<tr>
<td>• On February 28, 2008, Council approved the SDP and Final Plat for Anthem Filing No. 14, a 64-lot subdivision south of Filing No. 9.</td>
<td></td>
</tr>
<tr>
<td>• On September 2, 2008, Council approved a SDP and Final Plat for Anthem Filing No. 21, a 255-lot single-family subdivision located east of Lowell Boulevard and south of Preble Creek Parkway.</td>
<td></td>
</tr>
<tr>
<td>• On January 27, 2009, Council approved a SDP and Final Plat for Anthem Filing No. 22, a 388-lot single-family neighborhood located west of Lowell Boulevard and south of south end of Anthem Ranch Road.</td>
<td></td>
</tr>
</tbody>
</table>
III. APPLICABLE BROOMFIELD PLANS

Relationship to Comprehensive Plan, Sub-Area Plan, and Financial Plan

Land Use Map
The Comprehensive Plan Land Use Map exhibits shows projected land use categories for all properties within the City and County of Broomfield. The Comprehensive Plan envisions “Neighborhood Residential,” “Mixed Use Commercial,” “School,” and “Open Lands” uses on this site. The following map is a portion of the Comprehensive Plan Land Use Map that covers the subject property and surrounding area.
The adopted Land Use Map identifies the Anthem – West area as open lands, mixed-use commercial, school, and neighborhood residential. According to the Comprehensive Plan (emphasis added):

**Open Lands** are those public and private lands acquired or preserved in the public interest. They serve a variety of functions, including conserving and protecting natural, cultural, historic or scenic resources; providing opportunities for recreation; shaping the pattern of growth and development; and preserving agricultural resources.

“Open Lands” is an umbrella concept that encompasses three subsidiary designations: Park/Recreation Areas, Open Space and Other Open Lands. Park/Recreation areas are the most intensively developed and used types of open lands. They may contain open turf areas for passive recreations, playing fields, hard courts, picnic areas, restroom facilities and other improvements. Open Space areas are parcels intentionally protected from development and set aside for unstructured recreation and the appreciation of natural surroundings. They may contain trailheads and trails, fishing facilities, wildlife viewing areas and other facilities that support uses compatible with site resources and conditions. Other Open Lands include golf courses, detention areas and other facilities that are maintained by Broomfield but that are neither parks nor open space.

**Neighborhood Residential** areas should include a mix of housing types that achieve an overall average density target of four dwelling units per gross acre.

**Mixed-Use Commercial** areas provide a mix of commercial uses with supporting multifamily or single-family-attached residential uses. Development within these land use designation areas should provide a mix of commercial and supporting uses exhibiting quality building and site design and an attractive pedestrian environment with a strong street character. Traditional neighborhood design concepts with a strong pedestrian-oriented focus are essential. The mix of uses may be achieved vertically within buildings; however, some horizontal mixes on the site are allowed. This land use designation calls for an overall target density of eight dwelling units per acre, with higher densities allowed on individual projects. No more than 30 percent of the land area within the Mixed-Use Commercial district should be utilized for residential uses. Residential placed over retail should be considered a bonus in excess of this maximum.

**School** sites on the map represent either existing schools or approximate preferred locations for new elementary, middle and high schools. Final need and location of future schools will be determined at the time of the development proposal, based on project residential densities and consultation with the affected school district.
The proposed Anthem – West PUD Plan First Amendment requires a Comprehensive Plan land use map amendment to designate 0.52 acres from Open Lands to Mixed-Use Commercial. The following maps illustrate the proposed change (shown in red).

**Approved Land Use Map**

![Map](image-url)
The proposed change to the use of the Welcome Lodge property is discussed in greater detail under the Welcome Lodge section of this memorandum. The remainder of the PUD is in conformance with the designations on the Comprehensive Plan Land Use Map.
**Goals and Policies**
The proposed Anthem – West PUD Plan First Amendment will facilitate implementation of the following goals and policies identified in the Comprehensive Plan:

**Goal LU-C: Neighborhoods** Create a community of neighborhoods containing a variety of housing types, while maintaining the overall single-family residential nature of Broomfield.

**Policy LU-C.2**: Enhance residential neighborhoods by providing direct access to parks, community focal points and trails. Each neighborhood should have an interconnected network of tree-lined local streets that provides direct connections to local destinations.

**Goal OP-A: Forty percent Open Lands** Provide 40 percent of Broomfield’s planning area as open lands.

**Action Step T-D.1.3**: Evaluate how to provide accessibility and infrastructure that supports the use of electric carts for the elderly and the special needs population.

**Neighborhood / Area Plan**
The Anthem – West PUD Plan is within the I-25 Sub-Area Plan. On February 28, 2008, Council amended the I-25 Sub-Area Plan in conformance with the Anthem - West PUD Plan land uses. The proposed PUD Plan amendment requires an amendment of the I-25 Sub-Area Plan to change 0.52 acres from open lands to mixed-use commercial. The maps shown above also illustrate the proposed change to the I-25 Sub-Area Plan Land Use Map.

**Financial Plan**
The plans are consistent with the base data and projections contained in Broomfield’s adopted Long Range Financial Plan.
IV. AREA CONTEXT

Current Adjacent Land Uses

The Anthem – West PUD Plan covers 1,857.72 acres located south of SH 7 and west of Sheridan Parkway. The following map shows the location of the Anthem – West PUD in context with existing ground conditions.

Adjacent land uses:

- to the north is the Vista Ridge mixed residential development in the Town of Erie;
- to the east is the McWhinney mixed-use development property;
- to the south is the construction site for the Broomfield Reservoir, Wilcox Estates, and Spruce Meadows; and
- to the west is Boulder County open space and the City of Lafayette.
Status of Development in the Area

Northlands - Site Development Plan approved for the perimeter road improvements and initial infrastructure improvements for a regional shopping center. Site Development Plans for Phase I have been submitted and may be forwarded to City Council for review in 2009 depending on whether the developer decides to proceed.

257 Land – Approved PUD Plan for mixed-use commercial, town center, open lands, employment, and residential uses located generally north of SH 7 and east of I-25.

Palisade Park – The Children’s Hospital is open and in operation. The Sundrop temporary research and development facility has been approved and will be in operation in 2009. Drilling for the Bickler gas wells is complete and pumping operations are underway.

Seven25 – Approved PUD Plan for light employment, commercial, and residential uses generally located north of the Lowell Lane alignment and west of I-25.

Highlands – Approved PUD Plan and Final Plat for commercial, office, and residential uses generally located north of SH 7 and east of Sheridan Parkway.

McWhinney – Proposed PUD Plan and Preliminary Plat for a mixed-use development on the east side of the Community Ditch to I-25 are being reviewed.

There are several proposed development projects surrounding Anthem - West. The following illustrative map shows the plans in the context of surrounding area plans. These conceptual plans indicate how development might occur.
### Surrounding Land Uses

<table>
<thead>
<tr>
<th></th>
<th>ADJACENT USE/ZONING</th>
<th>COMPREHENSIVE PLAN DESIGNATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Town of Erie Mixed Residential / NA</td>
<td>NA</td>
</tr>
<tr>
<td>South</td>
<td>Open Lands, Low-Density Residential / PUD, A-1 (Adams), R-E (Adams)</td>
<td>Open Lands, Rural Residential</td>
</tr>
<tr>
<td>East</td>
<td>Vacant / PUD</td>
<td>Mixed-Use Commercial, Employment</td>
</tr>
<tr>
<td>West</td>
<td>Open Space / NA</td>
<td>NA</td>
</tr>
</tbody>
</table>
V. CURRENT APPLICATION – DETAILED DESCRIPTION AND STAFF REVIEW

**Background Base Data**

| 1. PROPERTY OWNER / APPLICANT   | Pulte Home Corporation |
| 2. PROPERTY LOCATION           | South of SH 7 and west of Sheridan Pkwy. |
| 3. PROPERTY SIZE               | Approximately 1,857 acres |
| 4. CURRENT ZONING              | PUD |
| 5. CURRENT LAND USE            | Single-family detached neighborhoods |
| 6. PROPOSED LAND USE           | Single-family detached neighborhoods |
| 7. COMPREHENSIVE PLAN DESIGNATION | Neighborhood Residential + Open Lands + Mixed-Use Commercial + School |

**Project Description**

**PUD Plan Amendment**
The proposed PUD Plan amendment achieves the following objectives:

1) Removes 80.58 acres located on the east side of the Community Ditch which will be included in the MXD (McWhinney PUD Plan);
2) Allows personal transporters on public trails and sidewalks within the entire PUD;
3) Allows Neighborhood Electric Vehicles on public streets west of Lowell Boulevard within the PUD (subject to Council approval of an ordinance to allow Neighborhood Electric Vehicles on a neighborhood-by-neighborhood basis);
4) Changes the designation for the future West 160th Avenue from six lanes to four lanes on the east side of Lowell Boulevard, moves the alignment of the future West 160th Avenue slightly to the north, and adjusts surrounding open lands tracts;
5) Changes the uses allowed in the Welcome Lodge (Tract W-53) from “Community Center” to medical, financial, legal and general offices, personal service uses, limited retail uses, day care centers, and civic uses;
6) Includes prior PUD Text Amendments and clarifies minor inconsistencies; and
7) Designates Tract W-47, a 7.02-acre parcel of land on the west side of Lowell south of the Northwest Parkway as open land instead of open space without changing the overall balance of open land and open space.

**Comprehensive Plan Amendment**
The proposed Comprehensive Plan Land Use Map amendment changes a 0.52-acre parcel of land from the open lands designation to the mixed-use commercial designation.

**I-25 Sub-Area Plan Amendment**
Like the proposed Comprehensive Plan Land Use Map amendment, the proposed I-25 Sub-Area Plan Land Use Plan amendment changes a 0.52-acre parcel of land from the open lands designation to the mixed-use commercial designation.
The documents attached to this memorandum include:

<table>
<thead>
<tr>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>Included with memorandum packet</td>
</tr>
<tr>
<td>• Anthem – West PUD Plan First Amendment (11 sheets, 11” x 17”, bound)</td>
</tr>
<tr>
<td>• ATTACHMENT A: Correspondence from the Open Space and Trails Advisory Committee (one page)</td>
</tr>
<tr>
<td>• ATTACHMENT B: Letter from Ed Walsh Regarding the Proposed Service Plan Amendments</td>
</tr>
<tr>
<td>• ATTACHMENT C: Letter from Ed Walsh Regarding the Proposed IGA</td>
</tr>
</tbody>
</table>

**Land Use Summary**

The following illustration shows the Anthem – West PUD Plan. The proposed First Amendment to the PUD Plan will remove the areas outlined in red from the PUD Plan boundary.
## ANTHEM – WEST PUD PLAN FIRST AMENDMENT
### COMPOSITE LAND USE SUMMARY

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Acres</th>
<th>Percent</th>
<th>Units or FAR</th>
<th>DU/AC</th>
<th>Parcel Sizes in Acres</th>
<th>Projected Selling Price</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Min</td>
<td>Avg</td>
</tr>
<tr>
<td>Mixed-Use Commercial</td>
<td>6.75</td>
<td>0</td>
<td>0.45 max</td>
<td>NA</td>
<td>0.52</td>
<td>3.38</td>
</tr>
<tr>
<td>Mixed Residential</td>
<td>795.78</td>
<td>45</td>
<td>1,500</td>
<td>1.88 net</td>
<td>17.00</td>
<td>53.05</td>
</tr>
<tr>
<td>Open Lands</td>
<td>734.67</td>
<td>41</td>
<td>NA</td>
<td>NA</td>
<td>0.12</td>
<td>15.31</td>
</tr>
<tr>
<td>Public Uses</td>
<td>6.57</td>
<td>0</td>
<td>NA</td>
<td>NA</td>
<td>0.50</td>
<td>3.29</td>
</tr>
<tr>
<td>Right-of-Way</td>
<td>125.98</td>
<td>7</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Northwest Parkway</td>
<td>107.40</td>
<td>7</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,777.15</strong></td>
<td><strong>100</strong></td>
<td><strong>0.45 max FAR</strong></td>
<td><strong>0.84 gross</strong></td>
<td><strong>0.12</strong></td>
<td><strong>23.04</strong></td>
</tr>
</tbody>
</table>

Composite Land Use Summary Map

Right-of-Way 125.98 Acres, 7%
Northwest Parkway 107.40 Acres, 7%
Mixed-Use Commercial 6.75 Acres 0%
Mixed Residential 795.78 Acres 45%
Public Uses 6.57 Acres
Open Lands 734.67 Acres 41%
**Boundary Change**

The proposed Anthem – West PUD Plan First Amendment reduces the area of the Anthem – West PUD Plan by 80.58 acres. These 80.58 acres are located mostly east of the Community Ditch in the southeastern portion of the PUD Plan area. These areas were sold the McWhinney Corporation and are no longer owned by the Pulte Home Corporation. The properties will be included in the MXD PUD Plan now under consideration by the Land Use Review Commission for the McWhinney property. The following illustrations show the proposed boundary change and the location of the 80.58 acres which are removed from the Anthem – West PUD Plan First Amendment.

**Open Lands and Public Land Dedication**

**Open Lands**

When the Preble Creek PUD Plan First Amendment was approved the applicant agreed to incorporate approximately 865 acres of open land into the proposal. The Anthem West PUD Plan included approximately 806 acres of open land (10 additional acres added) leaving approximately 69 acres of open land for the remaining eastern half of the Preble Creek PUD Plan First Amendment area.
The proposed Anthem – West PUD Plan First Amendment removes approximately 72 acres of open land from the PUD Plan and transfers those acres to the proposed MXD or McWhinney PUD area. The intent of the current PUD Plan changes is to preserve the total acreage of open lands in the Preble Creek PUD Plan First Amendment. Staff has included the following table to illustrate how the total open lands area is not intended to change with the proposed amendments to the PUD Plans.

**OPEN LANDS ACCOUNTING SUMMARY**

<table>
<thead>
<tr>
<th></th>
<th>PUD Plan</th>
<th>Minimum Open Lands Required (in acres)</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Original</strong></td>
<td>Preble Creek – 1st Amd.</td>
<td>865</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td><strong>Original Total</strong></td>
<td>865</td>
<td>-</td>
</tr>
<tr>
<td><strong>First Change</strong></td>
<td>Anthem West PUD Plan</td>
<td>806</td>
<td>+10</td>
</tr>
<tr>
<td></td>
<td>Remaining Preble Creek PUD Area</td>
<td>69</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td><strong>Anthem – West Total</strong></td>
<td>875</td>
<td>+10</td>
</tr>
<tr>
<td><strong>Second Change</strong></td>
<td>Anthem – West First Amendment</td>
<td>734*</td>
<td>-72</td>
</tr>
<tr>
<td></td>
<td>MXD PUD Plan (McWhinney)</td>
<td>131*</td>
<td>+62</td>
</tr>
<tr>
<td></td>
<td><strong>Proposed Total</strong></td>
<td>865</td>
<td>0</td>
</tr>
</tbody>
</table>

* The intent of the two amendments is to keep the minimum open lands unchanged for the overall Preble Creek PUD Plan – 1st Amendment area. All numbers have been rounded to whole acres and are approximate.

The total number of open land acres originally approved in the combination of the Anthem – West and Preble Creek PUD Plans will not decrease with this proposed PUD Amendment.
Personal Transporters

The proposed PUD Plan amendment allows the use of “personal transporters” or two-wheeled, non-gasoline motorized, single-person transporters (such as an electric bicycle, electric scooter, or a Segway®) to operate on all public trails and sidewalks within the Anthem – West PUD Plan area. There are approximately 50 miles of trails anticipated for the Anthem – West PUD Plan area. The map on the following page shows the trail system within the Anthem – West PUD Plan area.

The Open Space and Trails Advisory Committee (OSTAC) reviewed the proposal on Thursday, January 22, 2009. Correspondence from OSTAC is included with the memorandum (see Attachment A). OSTAC did not recommend approval of personal transporters on the public trail and sidewalk system at this time.
Neighborhood Electric Vehicles

The Anthem – West PUD Plan First Amendment proposes to allow “Neighborhood Electric Vehicles” or speed-limited, battery powered electric vehicles (such as modified golf carts) on public roads west of Lowell Boulevard, in the age-restricted Anthem Ranch portion of the PUD Plan area. Allowance for Neighborhood Electric Vehicles on public roads will likely require approval of an amendment to Chapter 10 of the Broomfield Municipal Code.

The Colorado Legislature is currently considering legislation affecting the licensing and use of Neighborhood Electric Vehicles. Pending the outcome of the proposed legislation, the City Council may be asked to consider an amendment to the Broomfield Municipal Code to provide Council the authority to permit Neighborhood Electric Vehicles on a neighborhood-by-neighborhood basis. The Anthem – West PUD Plan amendment contains provisions that if the City Council approves an Ordinance to permit Neighborhood Electric Vehicles on a neighborhood by neighborhood basis, the Anthem West neighborhood will be an approved neighborhood in which to use Neighborhood Electric Vehicles.

West 160th Avenue

The proposed First Amendment reduces the number of lanes of the future West 160th Avenue on the east side of Lowell Boulevard from a six-lane arterial to a four-lane arterial. The right-of-way width remains the same at 136 feet in overall width. In addition, the proposed amendment realigns West 160th Avenue slightly to the north and adjusts surrounding open lands tracts accordingly. The proposed Amended Anthem PUD Managed Growth and Development Agreement will remove the responsibility for the developer to construct West 160th Avenue from Lowell Boulevard, west to the Broomfield City/County line. ROW will be available if it were determined at a later date that the road should be constructed.
The illustration below shows the approved PUD Plan alignment of West 160th Avenue and the approved six-lane build-out of the street.
The following illustrations show the revised alignment of West 160th Avenue on the east side of Lowell Boulevard and the proposed four-lane cross section.

Pulte will construct the four-lane road and give Broomfield the option to expand the road to six lanes in the future, if necessary. Broomfield's Transportation Master Plan identifies 160th Avenue as a four-lane road in the future.
Welcome Lodge

On March 22, 2005, Council approved the SDP for Anthem Filing No. 2, which included the Welcome Lodge building. Pulte constructed the building shortly thereafter. The Anthem – West PUD Plan lists only one allowed use for the building: “community center.” It defines community center as “community offices (including community information centers, homeowner association offices and similar office and community uses that serve the operation of the Anthem community) and private community centers.” The following illustration shows the building elevations of the Welcome Lodge and the Welcome Lodge site.
The proposed Anthem – West PUD Plan First Amendment changes the use of the Welcome Lodge building to allow “Medical, Financial, Legal & General Offices; Personal Service Uses such as Yoga/Dance Studios, Hair/Nail Salon, Massage Therapy; Limited retail uses such as Coffee Shops and Sit-Down Restaurants; Banks (non drive through); Day Care Centers and Civic Uses.” Now that both recreation centers are constructed and there is ample space for homeowner association offices, Pulte requests additional uses for the building in order to provide for an alternative use of the building other than a community center.

The Welcome Lodge is approximately 4,389 gross square feet in area and has a 29-space parking area. A trail head structure is located south of the Welcome Lodge; however, there are no dedicated trail head parking spaces shown on the Site Development Plan. The PUD Plan requires 15 parking spaces for the trail head which may occur within park and recreation facilities and includes joint use of parking spaces. Since the proposed plans change the Welcome Center from open lands to mixed-use commercial, any new use of the building will have to show adequate spaces for the commercial use in addition to 15 spaces for the trail head that are required by the Anthem – West PUD Plan. The owner is proposing that a portion of the trail head parking spaces be shared by the user of the Welcome Lodge and the trail head and that the remainder be signed as reserved for trail head users.
When Council approved the Welcome Lodge SDP, they also approved a PUD Plan text amendment to change the land use of the one-half acre tract from “open lands” to “community center.” The Comprehensive Plan adopted later that year did not account for the change in land uses. Likewise, the I-25 Sub-Area Plan was never amended to reflect the change. As part of the text amendment change to allow one-half acre of open lands to become a community center, the applicant agreed that the open lands would be made up in another part of the development and that there would be no net decrease in the total open lands (865.27 acres). As noted earlier in the memorandum, there is no net decrease of total open lands proposed in the Anthem – West PUD Plan First Amendment, so that condition has been met.

While the change is minor, a Comprehensive Plan land use map amendment should be made required to designate the 0.52-acre Welcome Lodge property as a Mixed-Use Commercial district rather than as Open Lands.

**Previous PUD Text Amendments and Minor Inconsistencies**

On February 28, 2008, Council approved a text amendment to the Anthem – West PUD Plan to allow up to 25 percent of the 1,500 allowed dwelling units to be built as single-family attached or multi-family units. This approved change is included in the proposed First Amendment and identified as part of the objectives of the First Amendment so that all requirements may be found on the current plans.
Open Space

In the Anthem – West PUD Plan, a 7.02-acre parcel on the south side of the Northwest Parkway and the west side of Lowell Boulevard is identified as an area to be dedicated as open space. This parcel is identified as Tract W-47. The following illustration shows the location of Tract W-47.

On December 11, 2008, the Open Space and Trails Advisory Committee reviewed the designation change for Tract W-47. The Pulte Home Corporation agreed to incorporate the 7.02 acres of open space into remaining unspecified open lands in future filings.
Anthem West PUD Managed Growth and Development Agreement Amendment

The Preble Creek PUD Managed Growth and Development Agreement was approved by the Broomfield City Council in April 2001. The Agreement established infrastructure, community amenity and other development and reimbursement terms for what is now known as the Anthem development. The Agreement was amended in March 2006 and renamed as the Anthem PUD Managed Growth and Development Agreement.

Generally, the current agreement which covers the entirety of the Anthem property provides that:

- The developer will construct all street, utility lines, and other public infrastructure for the project.
- The developer will be reimbursed for 1/3 of the arterial streets within the project and 100% for streets outside the project, using 50% of the 3.5% City sales tax, 70% of the 3.5% City use tax and 50% of the Service Expansion Fee (SEF) collected from within the project.
- The developer will be reimbursed for the public water improvements using $2,077 from each Tap Equivalent (TE) sold with water licenses for regional water improvements constructed by the developer.
- The developer will be reimbursed for the public sewer improvements using $1,095 from each Equivalent Residential Unit (ERU) sold with sewer licenses for regional sewer improvements.
- The developer will provide building space or $817,000 towards a satellite library and building space or $750,000 towards a police sub-station.
- The developer will provide a joint school/park site.
- Open space and parks dedications will occur as set out in the Agreement.
- The developer will provide prescribed minimum acreages of property with appropriate infrastructure for development of commercial uses as the development proceeds, to provide a mixed-use community.
- The reimbursements will continue until costs plus interest are paid or 30 years from the date of the Agreement.

The currently proposed amendment is primarily to separate obligations and clarify reimbursements between the owner of Anthem West, Pulte and the new owner of Anthem East, McWhinney. There are two agreements proposed to replace the existing Agreement, they are the Anthem West PUD Managed Growth and Development Agreement and the Anthem East Managed Growth and Development Agreement.

Generally, with the proposed agreements, McWhinney retains responsibility for the improvements on the east side of the Community Ditch which supports their property and Pulte retains responsibility for the improvements on the west side of the Community Ditch.
The proposed amendments to the Anthem West Agreement clarify responsibilities for the infrastructure. The primary modifications to the terms of the Agreement are:

- The period for reimbursement is extended from 30 to 40 years.
- The responsibility to construct West 160th from Lowell Boulevard west to the City/County Boundary is removed.

There are other less substantive modifications that address timing and other administrative practices between the parties.

**Vesting Agreement Amendment**

A Vesting Agreement was approved by the Broomfield City Council in May 2001. Generally, the Vesting Agreement provided the developer with a five-year vesting period that was extended for additional five-year periods with the submittal and approval of site development plans and the provision of infrastructure to accommodate development.

The Agreement is proposed to be amended to provide vesting rights for the amended PUD Plan and the amended Anthem West PUD Managed Growth and Development Agreement. The amended agreement does not change the vesting period for the project.

**Service Plan Amendments**

In September 2001, the Broomfield City Council approved the Service Plans for the Northwest 1, 2, 3 and 4 Metropolitan Districts. District 1 was created as the financing district, District 2 was to include all of the commercial uses, District 3 was to include all of the single-family residential uses and District 4 was to include all of the multi-family residential uses.

The proposed amendment to the Service Plan for District No. 3 generally accommodates the sale of property to McWhinney and, among other things, that District No. 3 be permitted to provide services to commercial property of approximately 41,000 square feet and to finance future improvements in the amount of $15,005,572, as set forth on Exhibit D-2 of the First Modification, within the Anthem West PUD area.

Pulte will request that District No. 1 be dissolved by Court Order and Districts Nos. 2 and 4 will be taken over by the McWhinney group. It is likely that McWhinney will propose future amendments to the Service Plans for the two districts.

The current mill levy for District No. 3 is 42 mills, 40 mills for debt service and 2 mills for administrative costs to the District. The Service Plan amendment will not cause the 2009 mill levy to increase.

In his letter to the City Council attached as Attachment B, Mr. Ed Walsh, Special Legal Counsel to the City and County of Broomfield states that "The Series 2005 Bonds, the Subordinate Cash Flow Bonds and any bonds or other obligations issued by District No. 3 will never constitute obligations or debt of the City and County."
Intergovernmental Agreement between Northwest Metropolitan District #3 and the City and County of Broomfield

The proposed Intergovernmental Agreement (IGA) replaces an existing IGA between the same parties. Generally, the IGA provides for Dissolution of the District, limits the amount of debt it may issue and allows for the addition of lands to the District.

A letter to the City Council attached as Attachment C, from Mr. Ed Walsh, Special Legal Counsel to the City and County of Broomfield, explains the proposed IGA.

Ownership and Maintenance Agreement

The proposed Ownership and Maintenance Agreement shows 185 parcels of open lands and for each parcel identifies who is responsible for ownership and maintenance of the tract. The agreement and map are attached to Resolution No. 2009-47. The following map is the Ownership and Maintenance Agreement guide map.
The agreement is between Broomfield and the Pulte Home Corporation. The agreement references the map as a guideline document and describes the following seven special items and maintenance responsibilities associated with each:

- The Community Ditch;
- The Welcome Lodge and Gate House;
- The Buffalo Sculptures;
- Ponds;
- Monument Signs;
- Tracts that are Owned and Maintained by Separate Parties; and
- The Community Park.

Approximately 77 percent of all open lands in the Anthem – West PUD Plan First Amendment will be maintained by Broomfield. Approximately 79 percent of all open lands will be owned by Broomfield. The total open lands table in the Ownership and Maintenance Agreement map show that Pulte is anticipating dedication of approximately 14 more acres of open lands than the minimum required by the PUD Plan. The Ownership and Maintenance Plan shows approximately 749 acres of open lands. The minimum open land required in the PUD Plan is approximately 735 acres.

**Revocable Permit**

The requested revocable permit is an agreement between the City and County of Broomfield and the Pulte Home Corporation to allow the following structures on public property or within rights-of-way within the Anthem – West PUD Plan area:

- Pulte signs;
- Directional signs;
- Anthem, Community and Neighborhood signs;
- Monuments such as cairns and retaining walls;
- Private lighting;
- Buffalo sculptures; and
- Pond structures such as pumps, aeration systems, and bacterial injection systems.

These structures would be permitted on public property and rights-of-way as shown on specific SDPs. If Broomfield ever required any of these structures to be removed for any reason all that is required is a standard notification of ten days from Broomfield to the owner of the structure.
VI. STAFF REVIEW OF KEY ISSUES

During the development review process, staff identified the following key issues:

- A Comprehensive Plan Land Use Map amendment is necessary for the 0.52-acre Welcome Lodge property to change the land use designation from Open Lands to Mixed-Use Commercial.

  *The Pulte Home Corporation submitted a request to amend both the Comprehensive Plan Land Use Map and the I-25 Sub-Area Plan Land Use Plan. The proposed amendments are included in the approval resolution.*

- On January 22, 2009, the Open Space and Trails Advisory Committee (OSTAC) reviewed the request to allow “personal transporters” on all public trails within the Anthem – West PUD Plan area. Correspondence from OSTAC is included with the memorandum. OSTAC recommended denial of the use of personal transporters on public trails in Anthem at this time.

  *The applicant chose to keep the request to allow personal transporters on public trails within the Anthem – West development. The applicant would like Council to consider the issue with the recommendations from OSTAC and the Land Use Review Commission. If Council does not favor the use of personal transporters on public trails in Anthem – West, the applicant may ask Council to consider a condition of approval to remove that provision from the PUD Plan amendment.*

- In order to allow “Neighborhood Electric Vehicles” on public streets west of Lowell Boulevard, an amendment to Chapter 10 of the Broomfield Municipal Code is necessary.

  *There have been a number of bills introduced in the Colorado Legislature that may affect the ability of local governments to regulate Neighborhood Electric Vehicles. At the conclusion of the Legislative Session, staff will assess the status of Neighborhood Electric Vehicles under Colorado Statutes. If it is allowed, staff will propose an amendment to the Broomfield Municipal Code to the City Council to approve the use of Neighborhood Electric Vehicles in neighborhoods on a neighborhood-by-neighborhood basis.*

  *The applicant conducted a poll of neighborhood residents to determine how many residents support the use of Neighborhood Electric Vehicles versus how many oppose their use. The applicant will present the findings of the poll at the public hearing.*
VII. APPLICABLE MUNICIPAL CODE PROVISIONS

A public hearing is required. At the conclusion of the public hearing, Council reviews the application based on the following provisions of the BMC.

17-38-030 Concept plan review.

(A) Prior to any official submittal of a PUD plan or site development plan or an amendment to a PUD or site development plan, the applicant shall submit a concept plan to the city council for initial concept review at any regular or special meeting or at a study session. The applicant may also, at its discretion, submit the plan to the land use review commission for its review. It is intended that the land use review commission or the city council discuss with the applicant any significant concern about the plan. No official action is taken at this stage by either the land use review commission or the city council. Plan amendments which meet the criteria for administrative modifications as included in section 17-38-230, B.M.C., shall not be subject to concept plan review.

(B) The city manager may administratively exempt a plan from the provisions of subsection (A) if the following criteria are met:

1. The plan includes ten or fewer dwelling units;
2. The plan provides for no more than two additional nonresidential building sites or the development of less than 5,000 square feet of nonresidential building;
3. The proposed plan or use is in conformity with the master plan;
4. The city manager determines that the plan will not result in significant traffic, visual, noise, odor, or other impact on neighboring properties;
5. For PUD plan amendments, the plan represents a change in use of less than ten percent of the land area incorporated within the plan; and
6. The plan does not propose development requiring significant deviation from city code or administrative policy.

(C) The property that is the subject of a concept plan review shall be posted in accordance with section 17-52-050, B.M.C.

(D) Any comment, suggestion, or recommendation made by any member of the land use review commission or by any councilmember on any concept review plan is gratuitous and does not bind or otherwise obligate either the land use review commission or the city council to any course of conduct or decision after an applicant makes an official submittal of a plan to the city.

(E) Upon submission of an application for a concept review plan, an application fee of $500.00 shall be paid to the city for a concept plan for ten acres or more of land and $200.00 for a concept plan for less than ten acres of land. (Ord. 725 §1, 1987; Ord. 1070 §1, 1994; Ord. 1111 §26, 1995; Ord. 1122 §1, 1995; Ord. 1183 §1, 1996; Ord. 1692 §2, 2002)

17-38-100 PUD plan; hearing and notice; city council.

The city council shall hold a public hearing on the PUD plan. Notice shall be given in accordance with the provisions of chapter 17-52. (Ord. 725 §1, 1987)

17-38-110 PUD plan; decision; city council; recording.

(A) Within thirty days of the conclusion of its public hearing on the PUD plan, the city council shall adopt a resolution of approval, disapproval, or referral back to the land use review commission for further study.

(B) The PUD plan shall include a legal description of the real property within the boundaries of the PUD plan and a vicinity map showing the location in the city of the PUD plan, which shall be recorded in the office of the director of recording, elections, and motor vehicles. (Ord. 725 §1, 1987; Ord. 1111 §30, 1995; Ord. 1399 §2, 1999; Ord. 1658 §1, 2001)

17-38-120 PUD plan; review standards.

The recommendation of the land use review commission and the decision of the city council shall be based on whether the applicant has demonstrated that the proposed PUD plan meets the following standards:

(A) The proposal should be consistent with the intent of this chapter as set forth in section 17-38-010.

(B) The proposal should be consistent with the master plan.

(C) The proposal should identify and mitigate potential negative impacts on nearby properties, other areas of the city, and the city as a whole.

(D) The proposal should identify and maximize potential positive impacts on nearby properties, other areas of the city, and the city as a whole.

(E) The proposal should include adequate facilities for pedestrians, bicyclists, and motorists.

(F) The proposal should include adequate public improvements (both on and off site) to be provided in a timely fashion.

(G) The proposal should optimize conservation of energy, water, and other resources on a broad scale.

(H) The land uses within the plan should be compatible with one another and with nearby properties.

(I) The proposal should provide for open space at a rate of not less than forty percent of the developable site in residential areas and twenty-five percent in other areas as provided in section 17-38-240, below.

(J) The proposal should adequately provide for an organization for ownership and maintenance of any common areas.
The proposal should justify any proposed deviations from the Broomfield Municipal Code in terms of the overall quality of the plan. (Ord. 725 §1, 1987; Ord. 1111 §31, 1995)

17-38-130 PUD plan; modification.
Any modification to an approved PUD plan requires the same review by the land use review commission and the city council as the original PUD plan. (Ord. 725 §1, 1987; Ord. 1111 §32, 1995)

The city council may adopt the master plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding with major geographical sections or divisions of the city or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension, or addition, the city council shall hold at least one public hearing thereon, notice of the time and place of which shall be given in accordance with sections 17-52-010, 17-52-020, 17-52-030, 17-52-060, and 17-52-080, B.M.C. The adoption of the plan, any part, amendment, extension, or addition shall be by resolution of the city council. The resolution may refer expressly to the maps and descriptive and other matter intended by the city council to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the mayor or mayor pro tem and attested by the city clerk. A copy of the plan or part thereof shall be certified to each governmental body of the territory affected and shall be filed with the county clerk and recorder of each county wherein the territory is located. (Ord. 1072 §1, 1994; Ord. 1111 §48, 1995; Ord. 1415 §7, 1999)

17-58-050 Master plan amendments.
An applicant for a master plan amendment shall pay an application fee of $650.00 for a master plan amendment of ten acres or more of land and $250.00 for a master plan amendment of less than ten acres of land. (Ord. 1692 §5, 2002)

VIII. LAND USE REVIEW COMMISSION’S RECOMMENDATION

On January 26, 2009, the Land Use Review Commission held a public hearing to consider the proposed Anthem – West PUD Plan First Amendment. By a vote of six in favor and one against, the Land Use Review Commission adopted a resolution to recommend approval of the proposed PUD Plan amendment with the following conditions:

1) That the request for the use of personal transporters on public trails and sidewalks within the Anthem – West PUD Plan area be denied; and

2) That the request for the use of Neighborhood Electric Vehicles on public streets west of Lowell Boulevard in the Anthem – West PUD Plan area be denied.

Commissioner Silvers cast the dissenting vote.

In response to the Land Use Review Commission’s recommendation, the applicant retained the request for the use of personal transporters and Neighborhood Electric Vehicles in limited areas within the Anthem – West PUD Plan area. The applicant would appreciate Council’s consideration of both requests and if Council is not in favor of the requests, the applicant may ask for approval of the PUD Plan amendment with the condition that one or both of the requests are not authorized.
To: Broomfield Land Use Review Commission

From: Open Space and Trails Advisory Committee

Date: January 26, 2009

Subject: Anthem West PUD Amendment

We appreciate the opportunity to review the proposed Anthem West PUD Amendment. On January 22, 2009, the Open Space and Trails Advisory Committee (“OSTAC”) discussed the Pulte Homes request to allow personal transporters to use the trails and sidewalks within the Anthem West PUD. OSTAC recommends that the request to allow for personal transporters on the Anthem West trails not be approved at this time. We would like to provide some background on this recommendation below.

OSTAC has discussed and reviewed research on the use of Segways, one of the devices that would be allowed under Pulte’s definition of a personal transporter. The discussions have occurred at several OSTAC meetings. We carefully reviewed what other communities are doing on this issue, viewed a Segway operated at one of our meetings, and developed a recommendation on how Segways should be addressed for the community. Our recommendation included the following points:

- Create a pilot program that would allow for the use of Segways on a temporary basis in several locations that are used frequently by citizens and that allow for use on crusher fines and concrete trails;
- Evaluate how the Segways’ impact or do not impact the trail surface and other trail users;
- Ask residents what they think about allowing Segways on the trails; and
- Prepare a summary report to City Council on the results of the research and a recommendation for next steps. If the research supports the use of Segways on the trail system and City Council wished to allow for the use, OSTAC expressed interest in working work with staff on a draft ordinance to allow for Segways on some of Broomfield’s trails that are suitable for this use.

It is our opinion that the OSTAC approach outlined above reflects a more comprehensive approach to addressing the issue of personal transporters. We plan to have at least one OSTAC representative at your meeting on January 26th. Kristan Pritz, the Open Space and Trails Director will also attend the LURC meeting. We would be happy to answer questions at your meeting.
March 10, 2009

City Council
City and County of Broomfield
One DesCombes Drive
Broomfield, Colorado 80020

Re: First Modification to and Restatement of Original Service Plan for Northwest Metropolitan District No. 3 (Single Family District) (to be known as Anthem West Metropolitan District)

Ladies and Gentlemen:

On September 18, 2001, by Resolution No. 2001-253, the City Council of the City of Broomfield, Colorado (the "City") approved the Service Plan (the "District No. 3 Original Service Plan") for Northwest Metropolitan District No. 3 (Single Family District) ("District No. 3"). On September 18, 2001, by Resolution No. 2001-251, the City Council of the City approved the Service Plan (the "District No. 1 Original Service Plan") for Northwest Metropolitan District No. 1 (Service District) ("District No. 1"). On September 18, 2001, by Resolution No. 2001-252, the City Council of the City approved the Service Plan (the "District No. 2 Original Service Plan") for Northwest Metropolitan District No. 2 (Commercial District) ("District No. 2"). On September 18, 2001, by Resolution No. 2001-254, the City Council of the City approved the Service Plan (the "District No. 4 Original Service Plan") for Northwest Metropolitan District No. 4 (Multi-Family District) ("District No. 4"). District No. 1, District No. 2, District No. 3 and District No. 4 (collectively, the "Original Districts") were organized to coordinate with one another pursuant to a Facilities Funding, Construction and Operations Agreement among the Original Districts (the "FFCO Agreement") for the financing, acquisition, construction, operation and maintenance of public improvements serving the 3,000 acre Preble Creek development (the "Preble Creek Development") being developed by JPB Holdings, LLC and Pulte Home Corporation, or their successors and assigns (the "Developer") as set forth in the Preble Creek PUD Managed Growth and Development Agreement between the Developer and the City (the "Original Development Agreement").

On May 20, 2002, District No. 3 was organized by recordation of an Order and Decree creating District No. 3 issued by the District Court of Adams County on January 2, 2002, as amended on April 9, 2002. The area initially included in District No. 3 under the District No. 3 Original Service Plan was approximately 1 acre. It was contemplated in the District No. 3 Original Service Plan that tracts of land in the Preble Creek Development zoned for single family residential development would be included in District No. 3. After various inclusions and exclusions the existing area within District No. 3 is approximately 1,313 acres. Subsequent to the organization of the Original Districts, approximately 937 acres of land within the Preble Creek Development were
sold by the Developer to McWhinney CCOB Land Investment, LLC ("McWhinney") which sale changed the plans of development for portions of the Preble Creek Development and portions of land within District No. 3 from solely single family residential uses to single family residential and commercial uses, changed the costs of public improvements and the amounts necessary to finance the changed costs of public improvements. Based on the sale of the land and changed plans of development for the Preble Creek Development, the Developer and McWhinney desire that District No. 3 operate independently from District No. 1, District No. 2 and District No. 4 and further desire to terminate the FFCO and dissolve District No. 1, which changes require a modification and restatement of the District No. 3 Original Service Plan.

The First Modification to and Restatement of the District No. 3 Original Service Plan (the "First Modification") is presented to the City and County under the provisions of the Special District Act. The Special District Act requires that material modifications to a service plan be approved by the City and County. The decision to approve a material modification is to be made in substantially the same manner as provided for the approval of the District No. 3 Original Service Plan. The City and County, after the public hearing on March 10, 2009, may approve, disapprove or conditionally approve the First Modification. The decision is a legislative determination and is in the discretion of the City and County.

Approval of the District No. 3 Original Service Plan and the organization of District No. 3 permitted District No. 3 to finance infrastructure improvements through the issuance by District No. 3 of tax-exempt bonds. The initial infrastructure improvements in Exhibit E to the District No. 3 Original Service Plan were estimated to cost $88,740,000. In order to finance the initial infrastructure improvements, and as shown in the Financial Plan attached to the District No. 3 Original Service Plan, District No. 3 planned to issue $30,000,000 in general obligation bonds in 2002, $35,000,000 in general obligation bonds in 2007, and $38,000,000 in general obligation bonds in 2010 for a total of $103,000,000 in general obligation indebtedness. It was anticipated that District No. 3 would be developed with approximately 3,900 single family residential units with no commercial development. The District No. 3 Original Service Plan contemplated that the mill levy pledged for repayment of the general obligation bonds or other obligations would be 35 mills for debt service and 2 mills for operation and maintenance with a mill levy cap of 39.5 mills (subject to changes in the method of calculating assessed valuation). The District No. 3 Original Service Plan contemplated that as development occurred and the ratio of debt to assessed value was less than 50%, District No. 3 could issue debt without the mill levy cap and obtain more favorable interest rates.

The District No. 3 Original Service Plan also contemplated future inclusions of property, future construction of additional improvements and future issuance of additional obligations. Under an inclusion formula set forth in the District No. 3 Original Service Plan, acres within District No. 3
were valued at $151,250 per acre. For every additional acre of property that was to be included within District No. 3, District No. 3 was authorized to issue $151,250 of additional debt authorization. Therefore a future inclusion area of fifty-three (53) acres could have supported $8,000,000 in debt in the future. District No. 3 intended to authorize debt initially in the total amount of $103,000,000 and would have been authorized under the District No. 3 Original Service Plan to obtain future voter approval for $111,000,000 ("Debt Authority") based on the inclusion formula.

At an election on November 6, 2001, District No. 3 obtained voter approval for the incurrence of general obligation debt in the amount of $51,500,000. At an election on May 7, 2002, District No. 3 obtained voter approval for the incurrence of general obligation debt in the amount of $59,500,000. At an election on November 2, 2004, the District obtained voter approval for the incurrence of general obligation debt in the amount of $111,000,000. As a result of those elections, District No. 3 has voter approval for general obligation debt in the amount of $222,000,000. District No. 3 has voter approval for general obligation debt in excess of the Debt Authority in the District No. 3 Original Service Plan without modification of the District No. 3 Original Service Plan; however, District No. 3 has not issued general obligation bonds in excess of the Debt Authority. The District does not plan to seek voter approval for additional general obligation debt. In addition, the District in the First Modification and Amended and Restated Intergovernmental Agreement has agreed not to issue general obligation debt in excess of $111,000,000.

On December 22, 2005, District No. 3 issued its General Obligation (Limited Tax Convertible to Unlimited Tax) Bonds, Series 2005 in the amount of $56,000,000 (the "Series 2005 Bonds") for the financing of a portion of the Initial Improvements set forth on Exhibit D-1 to the First Modification. The Initial Improvements set forth on Exhibit D-1 total $114,665,530. A portion of the proceeds of the Series 2005 Bonds in the amount of $40,750,633 were used to reimburse the Developer for the costs of the Initial Improvements, including interest thereon, of which $28,452,108 was paid at the closing of the Series 2005 Bonds. The Series 2005 Bonds payable, from among other sources, a Required Mill Levy with a minimum debt service mill levy of 40 mills and maximum debt service mill levy of 45.41 mills. The property within the District has a 2008 assessed value of $31,481,200 with a mill levy of 40 mills for debt service and 2 mills for operation and maintenance that produces $1,322,203 in property tax revenue.

As a result of the sale to McWhinney, the plans of development for portions of the Preble Creek Development and portions of land within District No. 3 from solely single family residential uses to single family residential and commercial uses, the changed costs of public improvements and the amounts necessary to finance the changed costs of public improvements requires a modification and restatement of the District No. 3 Original Service Plan.
The Board of Directors of District No. 3 has presented a petition and has submitted to the City and County the First Modification that reflects the changes in the plans of development, the addition of commercial uses, the changed costs of public improvements, the changed costs in the amounts necessary to finance the costs of public improvements, the separation of the Original Districts, the termination of the FFCO Agreement, the dissolution of District No. 1 and the change of the name of District No. 3 from Northwest Metropolitan District No. 3 to Anthem West Metropolitan District.

We have reviewed the First Modification. Approval of the First Modification will, among other things, permit District No. 3 to provide services to commercial property of approximately 41,000 square feet and to finance the Future Improvements in the amount of $15,005,572, as set forth on Exhibit D-2 of the First Modification. In order to finance the Future Improvements and for the acquisition of those Initial Improvements not previously acquired from the proceeds of the Series 2005 Bonds, the Financial Plan attached to the First Modification as Exhibit J demonstrates the issuance of a total of $67,765,000 in general obligation bonds that includes the Series 2005 Bonds in the principal amount of $56,000,000 and Subordinate Cash Flow Bonds in the amount of $11,765,000. The Financial Plan assumes the Subordinate Cash Flow Bonds will be issued in December 2009 to fund additional obligations of District No. 3. The Subordinate Cash Flow Bonds will be paid by any amounts available after meeting the obligations of the Series 2005 Bonds. To the extent the available revenue generated is insufficient to pay interest, any unpaid amount will accrue and compound. Prior to the issuance of any additional general obligation debt, the construction costs for necessary Future Improvements may be paid by the Developer, subject to subsequent acquisition by District No. 3 of the completed Improvements and payment to the Developer of such construction costs and the interest thereon. The Financial Plan demonstrates the issuance of general obligation bonds and the anticipated repayment based on the projected development in District No. 3.

The Series 2005 Bonds, the Subordinate Cash Flow Bonds and any bonds or other obligations issued by District No. 3 will never constitute obligations or debt of the City and County. The completed public improvements when constructed by District No. 3 will either be conveyed to or maintained by the City and County or District No. 3, as provided and in accordance with Subdivision Improvement Agreements between the City and County and the Developer. When all of District No. 3's obligations are paid, and District No. 3 no longer provides services, District No. 3 will commence the process of dissolution under the provisions of the Special District Act, the First Modification and the Amended and Restated Intergovernmental Agreement with the City and County. Material modifications to the First Modification, including the division of District No. 3 into subdistricts must be presented to and approved by the City and County. Authorization of indebtedness by District No. 3 above $111,000,000 is subject to review as a material modification to First Modification.
I will attend the City Council meeting on March 10, 2009 to respond to any questions you may have.

Edward J. Walsh

EJW: wsc
SIGNATURE PAGE FOR INTERGOVERNMENTAL AGREEMENT

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

NORTHWEST METROPOLITAN DISTRICT NO. 3
(to be known as Anthem West Metropolitan District)

By: ____________________________________________
    Todd Levitt, President

Attest:__________________________________________

______________________________________________
Secretary

CITY AND COUNTY OF BROOMFIELD

By: ____________________________________________
    Mayor

Attest:__________________________________________

By: ____________________________________________
    City and County Clerk

APPROVED AS TO FORM

By: Hahn, Smith, Walsh & Mancuso, P.C.
    Hahn, Smith, Walsh & Mancuso, P.C.
March 10, 2009

City Council
City and County of Broomfield
One DesCombes Drive
Broomfield, Colorado 80020

Re: Amended and Restated Intergovernmental Agreement between the City and County of Broomfield, Colorado and Northwest Metropolitan District No. 3 (Single Family District) (to be known as Anthem West Metropolitan District)

Ladies and Gentlemen:

The City Council of the City of Broomfield, Colorado (the "City") on September 18, 2001, approved the Service Plan (the "Original Service Plan") for Northwest Metropolitan District No. 3 (Single Family District) ("District No. 3"). On November 15, 2001, the City became the City and County of Broomfield, Colorado (the "City and County"). The terms of the Original Service Plan required District No. 3 to enter into an Intergovernmental Agreement to provide for dissolution of District No. 3, the inclusion of additional real property within District No. 3, review by the City and County of financings for District No. 3 and otherwise implement the provisions of the Original Service Plan. The City Council of the City and County on September 27, 2005, adopted Resolution No. 2005-108, which approved an Intergovernmental Agreement dated September 27, 2005 (the "Original Intergovernmental Agreement") between the City and County and District No. 3.

There will be presented to the City Council of the City and County on March 10, 2009, the First Modification to and Restatement of Original Service Plan for District No. 3 (the "First Modification to Original Service Plan"). The terms of the First Modification to Original Service Plan require District No. 3 to amend and restate the Original Intergovernmental Agreement with the City and County to provide for dissolution of the District No. 3 and to implement the provisions of the First Modification to Original Service Plan. There will be presented to the City Council of the City and County on March 10, 2009, the Amended and Restated Intergovernmental Agreement (the "Amended and Restated Intergovernmental Agreement") between the City and County and District No. 3. It is necessary for the City Council of the City and County to review and approve the Amended and Restated Intergovernmental Agreement between the City and County and District No. 3.

We have reviewed the Amended and Restated Intergovernmental Agreement. The Amended and Restated Intergovernmental Agreement creates a contractual relationship between the City and County and the District No. 3. In addition, the City and County will, under the terms of the First
HAHN, SMITH, WALSH & MANCUSO, P.C.

City Council City and County of Broomfield
March 10, 2009
Page 2

Modification to Original Service Plan and the Amended and Restated Intergovernmental Agreement, review the inclusion of additional real property within District No. 3 and review the terms of District No. 3's financings to ensure that they are in compliance with the terms of the First Modification to Original Service Plan. The Amended and Restated Intergovernmental Agreement also provides that although District No. 3 has voter approval for $222,000,000 in general obligation debt that exceeds its Debt Authority in the Original Service Plan, it will not issue, under the provisions of the First Modification to Original Service Plan and the Amended and Restated Intergovernmental Agreement, general obligation debt in excess of $111,000,000. District No. 3 has outstanding general obligation debt in the principal amount of $56,000,000 and could therefore issue an additional $55,000,000 in general obligation bonds within this Debt Authority.

The obligations issued by the District No. 3 will never constitute the obligations of or indebtedness of the City and County. When all of the District No. 3's obligations are paid, and District No. 3 no longer provides services, District No. 3 will commence the process of dissolution under the provisions of the Special District Act, the First Modification to Original Service Plan and the Amended and Restated Intergovernmental Agreement.

Very truly yours,

HAHN, SMITH, WALSH & MANCUSO, P.C.

Edward J. Walsh

EJW: wsc
To: Mayor and City Council 
From: City and County Clerk 

For the Meeting of: March 10, 2009

Council Memorandum - Revision / Addition

For

Agenda Item 9(b) Anthem West and 9(e) Anthem East

Late last Friday afternoon, the developer for Anthem East asked that modifications be made to the Anthem East Vesting Agreement and the Anthem East PUD Managed Growth and Development Agreement between the City and McWhinney CCOB Land Investments, LLC as the developer, to add an additional party as owner, McWhinney Real Estate Services, Inc. The developer has requested the addition of the separate entity as owner in order to obtain a more favourable federal tax treatment. The addition of the owner as party requires changes to various sections of the Anthem East agreements.

Because the original Anthem development agreement is being divided into two agreements, one for Anthem East and one for Anthem West, the new agreements include consent forms by which the developers and owners of each the Anthem East and Anthem West developments are consenting to the other development agreement. The consent forms for both the Anthem East and Anthem West agreements have been modified to add a reference to the owner of Anthem East. The section in each agreement that indicates what documents constitute the “entire agreement” is being modified to reference the consent forms.

In lieu of providing copies of all the revised agreements and consent forms, all changes have been summarized above and the City & County Clerk has the revised version of the agreements, if you would like to review.

Revised Ordinance No. 1915 approving the Anthem East Vesting Agreement and the Anthem East PUD Managed Growth and Development Agreement is attached, adding the owner as a party to those agreements.
Subject: FW: Anthem PUD changes Item #2 on March 10th, 2008 Council Agenda

From: mghannan@msn.com
To: pquinn@broomfieldcitycouncil.org; wspader@broomfieldcitycouncil.org; Ahrensward4@aol.com; bkenyon@broomfieldcitycouncil.org; Ireynolds@broomfieldcitycouncil.org; bgaiser@broomfieldcitycouncil.org; tschumacher@broomfieldcitycouncil.org; lcox@broomfieldcitycouncil.org; dmccloskey@broomfieldcitycouncil.org; bette_erickson@hotmail.com; KevinInWard3@comcast.net
CC: satencio@broomfield.org
Subject: Anthem PUD changes Item #2 on March 10th, 2008 Council Agenda
Date: Sun, 8 Mar 2009 12:07:36 -0600

Dear Mayor, Council Members and City Attorney,

I attended the Council meeting of February 24th, but as I will be out of town on March 10th, I am writing to you, as a Broomfield resident, living in the area affected by item #2 on the agenda that address changes to the Anthem PUD for March 10th, 2009 Council meeting, my concerns regarding the O&M Agreement with the CCOB.

First, I would like to compliment the Pulte/Del Webb organization for their careful planning for this community, Anthem Ranch, in order to make it a great place to live and enjoy life. I feel very confident that they will continue with their best efforts to make this a thriving and successful planned community. Also, I would like extend my personal and deep felt gratitude for the needed assistance given voluntarily by Pulte/Del Webb organization, in these difficult economic times, to the Anthem Ranch Homeowners Association.

Provided that my understanding of the proposed O&M Agreement is correct, it appears that as a direct result of the change, if approved, it may delegate to the Anthem Ranch Community Association, and then by necessity to me, as a member of the CA, additional financial responsibilities for the care and maintenance of lands that will remain under the ownership of the CCOB. If that is the case, I would state for the record, my following thoughts.

When I purchased my home in Anthem Ranch, I fully understood, that the documents that governed this community would give rise to my personal financial responsibility, through the CA, to maintain the common lands throughout the community, and that common lands might be added to or subtracted from same. However, if approved, item #2 does not place on me the financial responsibility to maintain common community lands, but delegates to me, through the CA, responsibility to maintain the lands, or attachment to the lands, owned, operated by and controlled by the CCOB.

In and of itself, I do not find the limited substance of the summary of the Agreement objectionable. The problem that I have with it is simply the process by which it is being considered. While the matter is going to be addressed in a public forum, and citizens like me will have the opportunity to be heard, that alone seems inadequate to cover the matter at hand. On the surface, it appears that at least some, or all of the motivation for this agreement, might be with the CCOB budgetary considerations in mind, as opposed to just a clarification of an underlying developer agreement. If this was a matter of the CCOB saying it no longer wanted the lands under consideration included in those owned by the CCOB, then my objection to the process may well be moot. But that is not the case.
Unlike where City sidewalk maintenance is delegated to the responsibility of the adjoining homeowner, citywide, through City code, this maintenance responsibility, but not ownership, is being delegated to a select CA, and therefore the members of the CA, for the benefit and enjoyment of all citizens of the CCOB, with some financial responsibility then passed on to the individual members, through the CA, after the creation of the existing CA, without the CA even being a party to the Agreement.

Could any additional financial responsibility, shared only by the individual citizens of the CA, but where the whole CCOB might be benefited, be viewed as a special or unauthorized tax, not shared by the rest of the citizens of the CCOB? Without an Agreement in place between the CA and the CCOB, similar to development agreements required by the CCOB, is there the possibility that there will be many areas subject to potential dispute, such as easement issues, liability and insurance issues and issues as to what happens in the event there are disputes as to how resolution of disputes will be handled, including such considerations as to how legal costs and fees might be handled in the event there is litigation, especially in light of possible rights of immunity raised by the CCOB? Without an Agreement in place, approved by the CA, through its Board of Directors, will the rights and obligations of the parties be vague and subject to interpretation that can only be addressed through needless and costly litigation in the courts?

It would appear that there are a whole host of these and other troubling questions raised by the process that will take place place on March 10th to address this issue. As such, I would urge the Council to defer action on this matter in order to duly consider a process by which the CA can be properly included as a party, through the consent and formal agreement of its duly appointed or elected members of its Board of Directors, along with guidance from CA legal council. Thank you.

Respectfully submitted,

Michael G. Hannan
Attorney At Law
Licensed Real Estate Broker
Colorado & Florida
16495 Grays Way
Broomfield, CO 80020
303-440-7999
mghannan@msn.com

Hotmail® is up to 70% faster. Now good news travels really fast. Find out more.
-----Original Message-----
From: tkodonn303@aol.com
To: todd.levill@ouranthemranch.net
Sent: Mon, 9 Mar 2009 3:36 pm
Subject: Neighborhood Electric Vehicles

As a concerned resident of Anthem Ranch who enjoys the trails that are provided for us, I oppose the use of neighborhood electric vehicles on our trail systems. My wife and I enjoy our walks together. Who would have the right of way on our trails, the walking people or the electric vehicles? A silent vehicles, which has more speed than a walking person, coming from behind could cause a startling effect on the person walking. We live in a community of senior citizens and some of us may not respond as well as we did when we were younger, not only the walking people but the driver of the vehicles. I'm concerned there may be some serious consequences from both walking people and neighborhood electric vehicles using our trail systems.

Tom O'Donnell
16429 Somerset Dr
Broomfield, Co 80023
303 465 0070
RESOLUTION NO. 2009-27

A RESOLUTION APPROVING THE ANTHEM – WEST PUD PLAN FIRST AMENDMENT, APPROXIMATELY LOCATED SOUTH OF STATE HIGHWAY 7 AND WEST OF INTERSTATE 25, APPROVING THE FOURTEENTH AMENDMENT TO THE COMPREHENSIVE PLAN, AND APPROVING AN AMENDMENT TO THE I-25 SUB-AREA PLAN

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. Pursuant to the provisions of Chapter 17-38 of the Broomfield Municipal Code, Anthem – West PUD Plan First Amendment attached hereto is hereby approved.

Section 2. Pursuant to the provisions of chapter 17-58 of the Broomfield Municipal Code, the Comprehensive Plan Land Use Map (Map 1) on page 15 of the City and County of Broomfield 2005 Comprehensive Plan is hereby amended as shown with the amended page attached hereto as Exhibit 1.

Section 3. Pursuant to the provisions of Chapter 17-58 of the Broomfield Municipal Code, the I-25 Sub-Area Plan Land Use Plan (Page 11) as incorporated into the City and County of Broomfield 2005 Comprehensive Plan is hereby amended as shown with the amended page attached hereto as Exhibit 2.

Section 4. This resolution is effective on the date of approval by the City Council.

APPROVED on March 10, 2009.

THE CITY AND COUNTY OF BROOMFIELD, COLORADO

Mayor

City & City Clerk

APPROVED AS TO FORM:

City & County Attorney
March 10, 2009

Kevin Standbridge  
City and County of Broomfield  
1 DesCombes Drive  
Broomfield, Colorado 80020

RE: REQUEST REMOVAL OF PERSONAL TRANSPORTERS FROM ANTHEM WEST-PUD  
– FIRST AMENDMENT

Dear Mr. Standbridge:

This letter is to serve as a formal request to remove the proposed use of personal transporters from the Anthem West-PUD – First Amendment and from the Broomfield City Council agenda for March 10, 2009. We are specifically requesting that Note 6 of the Overall Anthem Project Concept on Sheet 1 of the Anthem-West PUD – First Amendment be deleted and that Note 2 of the Project Overview on Sheet 1 of the Anthem-West PUD – First Amendment be amended to remove “personal transporters” from the language and to now read as follows:

“Inclusion of neighborhood electric vehicles as specified within the Anthem West – PUD boundary.”

I will follow up with a verbal explanation of this request at the Council Hearing this evening.

Sincerely,

Todd Levitt  
Vice President of Land  
Pulte Homes – Colorado Division
**Land Use by Tract**

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**Access to Tracts**

- **Tract Access**
  - **Roadway Access**: Generally access to the roadway system is limited to the adjacent residential or commercial areas.
  - **Pedestrian Access**: Pedestrian access is provided through existing pathways and sidewalks.
  - **Public Park Access**: Public parks are accessible via existing pathways and sidewalks.

**PERMITTED LAND USES AND DENSITIES WITHIN DEVELOPMENT STATISTICS**

- **Tract W-01**: Residential (Any use needed), Commercial (Any use needed), Public Park (Any use needed).
- **Tract W-02**: Commercial (Any use needed), Business (Any use needed), Other Public Uses (Any use needed).
- **Tract W-03**: Public Park (Any use needed), Recreational Park (Any use needed), Educational (Any use needed).
- **Tract W-04**: Sport Complex (Any use needed), Business (Any use needed), Other Public Uses (Any use needed).
- **Tract W-05**: Educational (Any use needed), Recreational Park (Any use needed), Sport Complex (Any use needed).
- **Tract W-06**: Business (Any use needed), Other Public Uses (Any use needed).
- **Tract W-07**: Other Public Uses (Any use needed).

**RESIDENTIAL STANDARDS AND VARIANCES**

- **Residential Setbacks**: Sidewalks are required along all streets and alleys. Minimum setback requirements are 5 feet from the street line.
- **Lot Sizes**: Minimum lot size is 7,500 square feet for single-family homes.

**RECREATIONAL FACILITIES AND TRAILS**

- **Community Trails**: The community trail system is designed to accommodate both walking and cycling.
- **Permitting**: Permits for construction and modification of trails are required.

**GENERALIZED SUMMARY OF LAND USE REQUIREMENTS**

- **Tract Access**: Generally access to the roadway system is limited to the adjacent residential or commercial areas.
- **Pedestrian Access**: Pedestrian access is provided through existing pathways and sidewalks.
- **Public Park Access**: Public parks are accessible via existing pathways and sidewalks.

**RESIDENTIAL DENSITY TRANSFER**

- **Tract W-01**: Residential (Any use needed), Commercial (Any use needed), Public Park (Any use needed).
- **Tract W-02**: Commercial (Any use needed), Business (Any use needed), Other Public Uses (Any use needed).
- **Tract W-03**: Public Park (Any use needed), Recreational Park (Any use needed), Educational (Any use needed).
- **Tract W-04**: Sport Complex (Any use needed), Business (Any use needed), Other Public Uses (Any use needed).
- **Tract W-05**: Educational (Any use needed), Recreational Park (Any use needed), Sport Complex (Any use needed).
- **Tract W-06**: Business (Any use needed), Other Public Uses (Any use needed).
- **Tract W-07**: Other Public Uses (Any use needed).
Anthem - West
P.U.D. PLAN AND PRELIMINARY PLAT - FIRST AMENDMENT
EXISTING SITE FEATURES

EXISTING PREBLE CREEK PUD FIRST AMENDMENT RECORDED AS RECEPTION # 200302211561 ON NOVEMBER 11, 2003

LEGEND

- Propane Dog Habitat
  - Landmarking (by hedging, signage, etc.)
- Subsidence Area
- Existing Trees
- Non-Aboriginal Trees
- Open Water
- Existing Propane Dog Relocation Site
- Wetlands
- 50-foot buffer
- 100-foot buffer
- Meridian / 14th Parallel

NEIGHBORHOOD 1 (Approved Filing No. 15)
NEIGHBORHOOD 2 (Approved Filing No. 68)
NEIGHBORHOOD 3 (Approved Filing No. 62)
NEIGHBORHOOD 4 (Approved Filing No. 71)
NEIGHBORHOOD 5 (Approved Filing No. 2)
NEIGHBORHOOD 6 (Approved Filing No. 16)
NEIGHBORHOOD 7 (Approved Filing No. 67)
NEIGHBORHOOD 8 (Approved Filing No. 62)
NEIGHBORHOOD 9 (Approved Filing No. 12)
NEIGHBORHOOD 10 (Approved Filing No. 12)
NEIGHBORHOOD 11 (Approved Filing No. 16)
NEIGHBORHOOD 12 (Approved Filing No. 29)
NEIGHBORHOOD 12A (Approved Filing No. 29)

GENERAL NOTES
1. THE DEVELOPMENT SHALL INCORPORATE AND PRESERVE EXISTING SITE FEATURES, TO INCLUDE (BUT NOT LIMITED TO): TREES AND WETLANDS WHERE MAJOR ROADWAY CONSTRUCTION IS PERMITTED. TREES SHALL BE PROTECTED AT A 50-Foot Buffer AND A 100-Foot Buffer ON SITE AT A 2:1 RATIO.  A WETLAND BUFFER OF 70 FEET WILL BE RECOMMENDED FOR MOAT VITAL WETLANDS AS AN ALTERNATIVE, THE DEVELOPER MAY PROVIDE ADDITIONAL PROTECTION MEASURES INCLUDING BUFFER PLANTING, BUFFER FENCING, BUFFER SIGNAGE OR FENCING TO BE CONSIDERED AND IDENTIFIED AT EACH ISD SURFICIAL.

REFERENCES/RESOURCES:
- "Colorado Oil and Gas West Royalty" Corner Turquoise Parkview, Denver, Colorado; May 2005
- "Anthem: Propane Dog Conservation and Management," Prepared for: Pulse Home Corporation Owner Division
- "Anthem: Propane Dog Conservation and Management," Prepared for: Pulse Home Corporation Owner Division
- "Anthem: Propane Dog Conservation and Management," Prepared for: Pulse Home Corporation Owner Division
- "Anthem: Propane Dog Conservation and Management," Prepared for: Pulse Home Corporation Owner Division

Anthem - West P.U.D. Property Line

SHEET 9
EAST, SITE PLAT.
Privacy Berm at Connectors and Arterials

1. Proposed when there is 20 foot or greater between roadway ROW and lot line, otherwise Opaque Screen Wall shall apply
2. Planting material will vary
3. 3:1 slope maximum
4. Table shown on sheet 2 indicates minimum landscape buffer widths to connector and arterial roadways.

Community Ditch Trail Corridor

CHARACTER:
Adjacent to Community Ditch, the trail may meander outside Community Ditch easement up to 40 feet.
SIZE: Min. 10 feet wide
MATERIALS: Hard surface (concrete)

Trail Corridor

CHARACTER:
Trails may or may not be located adjacent to roadways. When trails are located adjacent to roadways they may be located within the road right-of-way for 30% of their length. Trails may meander within open lands or tract building and parking setback areas.
SIZE: 6 to 8 feet wide
MATERIALS: Hard or soft surface

General Notes:
1) Detail A is provided to establish a level of quality and design consistency throughout the Anthem-West PUD.
RESOLUTION NO. 2009-44

A RESOLUTION APPROVING THE FIRST MODIFICATION TO AND RESTATEMENT OF ORIGINAL SERVICE PLAN FOR NORTHWEST METROPOLITAN DISTRICT NO. 3 TO BE KNOWN AS ANTHEM WEST METROPOLITAN DISTRICT AND PROVIDING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, the City and County of Broomfield, State of Colorado (the "City and County"), is a political subdivision of the State, a body corporate and politic, a home-rule City and County pursuant to Article XX of the State Constitution and a city and county pursuant to Sections 10, 11, 12 and 13 of Article XX of the State Constitution; and

WHEREAS, pursuant to the provisions of Part 2 of Article 1 of Title 32, C.R.S., as amended, (the "Act"), no special district shall be organized if its boundaries are wholly contained within the boundaries of a municipality, except upon adoption of a resolution of approval by the governing body of the municipality; and

WHEREAS, pursuant to the terms of the Act, the City Council of the City of Broomfield, Colorado (the "City") on September 18, 2001, adopted Resolution No. 2001-253, that determined that the requirements of the filing of the Service Plan (the "District No. 3 Original Service Plan") for Northwest Metropolitan District No. 3 (Single Family District) ("District No. 3") and the organization of District No. 3 had been fulfilled; and

WHEREAS, pursuant to the terms of the Act, the City Council of the City on September 18, 2001, adopted Resolution No. 2001-251, that determined that the requirements of the filing of the Service Plan (the "District No. 1 Original Service Plan") for Northwest Metropolitan District No. 1 (Service District) ("District No. 1") and the organization of District No. 1 had been fulfilled; and

WHEREAS, pursuant to the terms of the Act, the City Council of the City on September 18, 2001, adopted Resolution No. 2001-252, that determined that the requirements of the filing of the Service Plan (the "District No. 2 Original Service Plan") for Northwest Metropolitan District No. 2 (Commercial District) ("District No. 2") and the organization of District No. 2 had been fulfilled; and

WHEREAS, pursuant to the terms of the Act, the City Council of the City on September 18, 2001, adopted Resolution No. 2001-254, that determined that the requirements of the filing of the Service Plan (the "District No. 4 Original Service Plan") for Northwest Metropolitan District No. 4 (Multi-Family District) ("District No. 4") and the organization of District No. 4 had been fulfilled; and

WHEREAS, District No. 1, District No. 2, District No. 3 and District No. 4 (collectively, the "Original Districts") were organized to coordinate with one another pursuant to a Facilities Funding, Construction and Operations Agreement among the Original Districts (the "FFCO Agreement") for the financing, acquisition, construction, operation and maintenance of public improvements serving the 3,000 acre Preble Creek development (the "Preble Creek Development") being developed by JPB
Holdings, LLC and Pulte Home Corporation, or their successors and assigns (the "Developer") as set forth in the Preble Creek PUD Managed Growth and Development Agreement between the Developer and the City (the "Original Development Agreement"); and

WHEREAS, on May 20, 2002, District No. 3 was organized by recordation of an Order and Decree creating District No. 3 issued by the District Court of Adams County on January 2, 2002, as amended on April 9, 2002; and

WHEREAS, the area initially included in District No. 3 under the District No. 3 Original Service Plan was approximately 1 acre; and

WHEREAS, it was contemplated in the District No. 3 Original Service Plan that tracts of land in the Preble Creek Development zoned for single family residential development would be included in District No. 3; and

WHEREAS, after various inclusions and exclusions the existing area within District No. 3 is approximately 1,313 acres; and

WHEREAS, subsequent to the organization of the Original Districts, approximately 937 acres of land within the Preble Creek Development were sold by the Developer to McWhinney CCOB 1, LLC ("McWhinney"); and

WHEREAS, the sale of the land has changed the plans of development for portions of the Preble Creek Development and portions of land within District No. 3 from solely single family residential uses to single family residential and commercial uses, and has changed the cost of public improvements and the amounts necessary to finance those uses; and

WHEREAS, based on the sale of the land and changed plans of development for the Preble Creek Development, the Developer and McWhinney desire that District No. 3 operate independently from District No. 1, District No. 2 and District No. 4 and further desire to terminate the FFCO and dissolve District No. 1, which changes require a modification and restatement of the District No. 3 Original Service Plan; and

WHEREAS, pursuant to the terms of the Act, material modifications to the District No. 3 Original Service Plan may be made only by petition to and approval by the City Council of the City and County in substantially the same manner as is provided for the approval of the District No. 3 Original Service Plan; and

WHEREAS, the Board of Directors of District No. 3 has presented a petition and has submitted to the City and County the First Modification to and Restatement of Original Service Plan (the "First Modification to Original Service Plan") for District No. 3 that reflects the changes in the plans of development, the addition of commercial uses, the changed costs of public improvements, the changed costs in the amounts necessary to finance the public improvements within District No. 3, the separation of the Original Districts, the termination of the FFCO Agreement, the dissolution of
District No. 1 and the change of the name of District No. 3 from Northwest Metropolitan District No. 3 to Anthem West Metropolitan District, which First Modification to Original Service Plan for District No. 3 is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, a Notice of Public Hearing regarding the First Modification to Original Service Plan for District No. 3 on February 24, 2009 was published in the Broomfield Enterprise on January 29, 2009; and

WHEREAS, the City Council of the City and County on February 24, 2009, continued the public hearing until March 10, 2009; and

WHEREAS, the City Council of the City and County held a continued public hearing on March 10, 2009 regarding the petition and approval of the First Modification to Original Service Plan for District No. 3; and

WHEREAS, the Act provides that the City and County has the authority: (a) to approve without condition or modification the First Modification to Original Service Plan for District No. 3; (b) to disapprove the First Modification to Original Service Plan for District No. 3 submitted; or (c) to conditionally approve the First Modification to Original Service Plan for District No. 3, subject to the submission of additional information relating to, or the modification of, the First Modification to Original Service Plan for District No. 3 or by agreement with the proponents of the First Modification to Original Service Plan for District No. 3; and

WHEREAS, the City Council considered the First Modification to Original Service Plan for District No. 3 and all other testimony and evidence presented at the hearing; and

WHEREAS, it appears to the City Council that the First Modification to Original Service Plan for District No. 3 should be approved.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. That the City Council hereby determines that the requirements of the Act, relating to the filing of the First Modification to Original Service Plan for District No. 3 have been fulfilled and the First Modification to Original Service Plan for District No. 3 is hereby approved.

Section 2. That the City Council hereby finds and determines as follows:

(a) There is a sufficient existing and projected need for organized service in the area served by District No. 3;

(b) The existing service in the area served by District No. 3 is not adequate for present and projected needs;
(c) Adequate service is not now and will not be available in the future to the area served by District No. 3 through the City and County or other existing municipal or quasi-municipal corporations, including existing special districts within a reasonable time or on comparable basis;

(d) District No. 3 is capable of providing economic and sufficient service to the area within its boundaries;

(e) The area within District No. 3 has and will have the financial ability to discharge its indebtedness on a reasonable basis.

Section 3. That in accordance with the Section XI of the First Modification to Original Service Plan for District No. 3 and the District No. 3 Original Service Plan, the City and County Manager and City and County Attorney are hereby authorized to review a financial plan which demonstrates the structure of any proposed bond transaction and District No. 3’s plan to pay the proposed bonds (the "Bond Issuance Plan"). The City and County Manager and City and County Attorney shall have forty-five (45) days from the date of receipt of the Bond Issuance Plan in which to object to such Bond Issuance Plan. In the event the City and County objects in writing within the forty-five (45) day period, District No. 3 shall proceed with the bond issuance only with the written consent of the City and County Manager and City and County Attorney, or their designees.

Section 4. That this Resolution is effective upon its approval by the City Council.

ADOPTED AND APPROVED this 10th day of March, 2009.

CITY AND COUNTY OF BROOMFIELD, COLORADO

[Signature]
Mayor

[Signature]
City and County Clerk, Deputy

APPROVED AS TO FORM:

Hahn, Smith, Walsh & Mancuso, P.C.

-4-
FIRST MODIFICATION TO
AND RESTATEMENT OF ORIGINAL SERVICE PLAN

FOR

NORTHWEST METROPOLITAN DISTRICT NO. 3
(to be known as Anthem West Metropolitan District)

(CITY AND COUNTY OF BROOMFIELD, COLORADO)

Prepared by:

McGEADY SISNEROS, P.C.
450 EAST 17TH AVENUE
DENVER, CO 80203
(303) 592-4380

APPROVED: March 10, 2009
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FIRST MODIFICATION TO AND RESTATEMENT OF
ORIGINAL SERVICE PLAN FOR
NORTHWEST METROPOLITAN DISTRICT NO. 3
(to be known as Anthem West Metropolitan District)
(CITY AND COUNTY OF BROOMFIELD, COLORADO)

I. INTRODUCTION

On September 18, 2001, by Resolution No. 2001-253, the City Council of the City of Broomfield, Colorado (the “City”), now the City and County of Broomfield, Colorado (“Broomfield” or the “City and County”) approved the Service Plan (the “Original Service Plan”) for Northwest Metropolitan District No. 3 (Single Family District) (the “District” or “District No. 3”). On May 20, 2002, the District was organized by recordation of an Order and Decree Creating District, issued by the District Court of Adams County on January 2, 2002, as amended on April 9, 2002. The District is in the process of changing its name to Anthem West Metropolitan District.

The Original Service Plan for the District was approved by the City Council of the City on September 18, 2001, together with the original service plans for Northwest Metropolitan District No. 1 (Service District) (“District No. 1”), Northwest Metropolitan District No. 2 (Commercial District) (“District No. 2”), and Northwest Metropolitan District No. 4 (Multi-Family District) (“District No. 4”) (collectively, the District, District No. 1, District No. 2 and District No. 4 are referred to herein as the “Districts”). At the time of approval of the original service plans on September 18, 2001, it was anticipated that the Districts would coordinate with one another through a Facilities Funding, Construction and Operations Agreement (“FFCO Agreement”) among the Districts for the financing, acquisition, construction, operation and maintenance of the public improvements serving the entire approximately 3,000 acre Preble Creek Development (“Preble Creek”). It was anticipated that the District, District No. 2 and
District No. 4 would serve as the financing districts organized to provide the financing for the public infrastructure and services necessary to serve Preble Creek and that District No. 1 would serve as the service district organized to finance, construct, own, manage, and operate the public improvements throughout Preble Creek. At the time of approval of the Original Service Plan, it was anticipated that the District would be developed with approximately 3,900 single family residential units. As set forth on the Financial Plan, it is currently anticipated that the District will be developed with approximately 2,797 single family residential units and an estimated 46,000 square feet of commercial property. There are currently approximately 885 single-family residential units in the District and less than 5,000 square feet of commercial property (consisting mainly of the Welcome Lodge).

Subsequent to the approval of the Original Service Plan, approximately 937 acres of property within the Preble Creek Development was sold by Pulte Home Corporation to CCOB 1, LLC (“McWhinney”). This First Modification to and Restatement of Original Service Plan for Northwest Metropolitan District No. 3 (to be known as Anthem West Metropolitan District) (“Service Plan”) has been prepared to address the current plans for the Development (as hereinafter defined). McWhinney anticipates submitting a First Modification and Restatement of Original Service Plan for Northwest Metropolitan District No. 2 and a First Modification and Restatement of Original Service Plan for Northwest Metropolitan District No. 4 shortly after the submittal of this Service Plan. Upon approval of this Service Plan, the FFCO Agreement will be terminated, District No. 3 will operate independently from District Nos. 2 and 4 and District No. 1 will be dissolved. This Service Plan entirely modifies, replaces and supersedes the Original Service Plan.
Pursuant to the requirements of the Special District Control Act, Section 32-1-201, et seq., Colorado Revised Statutes ("C.R.S."), this Service Plan consists of a financial analysis and an engineering plan showing how the existing and proposed facilities and services of the District were provided and financed and will be provided and financed.

The following items are included in this Service Plan:

A. A description of the existing and future proposed services;

B. A financial plan showing how future proposed services are to be financed;

C. A preliminary engineering or architectural survey showing how the future proposed services are to be provided;

D. A map of the District Boundaries, as hereafter defined, and estimates of the existing and future population and existing and estimated valuation for assessment of the District;

E. A general description of the facilities constructed or to be constructed and the standards of such construction, including a statement of how the facility and service standards of the District are compatible with facility and service standards of the City and County and of municipalities and special districts which are interested parties pursuant to Section 32-1-204(I), C.R.S.;

F. A general description of the estimated cost, if any, of acquiring land, engineering services, legal services, administrative services, existing indebtedness, proposed future indebtedness and existing maximum interest rates and discounts, estimated proposed future maximum interest rates and discounts, and other major expenses related to the organization and future operation of the District; and
G. A description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the District and such other political subdivision.

The City and County is in the process of reviewing the development plans for the Development. This Service Plan is being submitted prior to the approval by the City and County of all the subdivision improvement agreements for the Development. Nothing contained in this Service Plan obligates the City and County to approve development plans, subdivision improvement agreements, the Bond Issuance Plan or any other documents.

II. PURPOSE OF THE DISTRICT

It is intended that the District will provide certain essential public purpose facilities for the use and benefit of its taxpayers and service users. The District has previously financed the construction of the Initial Improvements, as herein after defined, and is expected to provide such other improvements and services as are described in this Service Plan. The major purpose of the District is to finance and construct public improvements and to dedicate, when appropriate, some of the public improvements to the City and County, or such other entity as appropriate, for the use and benefit of the District taxpayers and service users. The total area within the District is approximately 1,313 acres and is being developed primarily for residential uses and some limited commercial development (the “Development”). The Development is entirely within the boundaries of the City and County and the boundaries of the North Metro Fire Rescue District (the “Fire District”). The District and the property within the District Boundaries (defined herein) is located generally west of the Community Ditch, east of the Boulder/Broomfield County Line boundary, south of State Highway 7, and north of the Northwest Parkway. The
Development is being developed by Pulte Home Corporation, or its successors or assigns (the “Developer”).

Neither the City and County nor any other special district has plans to provide such services and facilities within a reasonable time and on a comparable basis. Therefore, it is necessary that the District be able to provide the inhabitants of the Development with water, sewer, street, safety protection, parks and recreation, transportation, television relay and translation facilities, and limited fire protection services and to dedicate, when appropriate, some of the public improvements to the City and County, the Fire District or to such other entity as appropriate. See Exhibit C attached hereto and incorporated herein, which lists other special districts and interested parties as defined by Section 32-1-204(1), C.R.S.

III. DISTRICT BOUNDARIES/MAPS

The area initially included in the District under the Original Service Plan was approximately one (1) acre. On June 28, 2005, the boundaries of the District were adjusted to include approximately 1,450.92 acres of additional property, after waiver by the City and County in accordance with the Original Service Plan on December 22, 2005. On November 21, 2005 the boundaries of the District were further adjusted to exclude approximately 68 acres of property. The boundaries of the District were again adjusted on January 9, 2009 to include approximately 10.306 acres of additional property, after waiver by the City and County in accordance with the Original Service Plan on December 19, 2008. The boundaries of the District were further adjusted on January 9, 2009, to exclude approximately 81 acres of property from the District. Following these inclusions and exclusion, the existing area within the District is approximately
1,313 acres. A legal description and map of the District Boundaries is attached hereto as Exhibit A-1 and A-2, respectively, and a vicinity map is attached as Exhibit B.

It is anticipated that the District's boundaries may change from time to time as it undergoes inclusions and exclusions pursuant to Parts 4 and 5 of Article 1, Title 32, C.R.S. The District shall not alter its boundaries by inclusion of additional real property into the District Boundaries without first providing written notice to Broomfield and to the City and County Manager and the City and County Attorney that it has received a petition requesting that additional property be included in the District Boundaries, which petition shall be included in the written notice. After receipt of the notice and petition, the governing body of Broomfield shall within forty-five (45) days of receipt of such notice and petition, either (a) adopt a resolution of approval authorizing the inclusion or, (b) Broomfield acting through the City and County Manager and the City and County Attorney shall submit a written waiver of Broomfield's right to require such resolution or, (c) Broomfield acting through the City and County Manager and the City and County Attorney shall file a written objection to the inclusion, each action shall be in Broomfield's sole discretion. Any resolution of approval so adopted or waiver or objection shall be appended to the inclusion petition.

Other than the Improvements set forth in this Service Plan and the SIAS, the District shall not provide services to areas outside the District Boundaries without first providing written notice to Broomfield and to the City and County Manager and the City and County Attorney that it intends to provide service to areas outside the District Boundaries. After receipt of the notice the governing body of Broomfield shall within forty-five (45) days of receipt of such notice and petition, either (a) adopt a resolution of approval authorizing the District to provide service to areas outside the District Boundaries or, (b) Broomfield acting through the City and County
Manager and the City and County Attorney shall submit a written waiver of Broomfield's right to require such resolution or, (c) Broomfield acting through the City and County Manager and the City and County Attorney shall file a written objection to providing services outside the District Boundaries, each action shall be in Broomfield's sole discretion.

IV. PROPOSED LAND USE/POPULATION PROJECTIONS

At present, the property within the District Boundaries is zoned PUD. It is anticipated that the property within the District Boundaries will be developed with approximately 2,797 single-family residential units and an estimated 46,000 square feet of commercial space. As of the date of submittal of this Service Plan, approximately 885 single-family residential units and less than 5,000 square feet of commercial space have been constructed (consisting mainly of the Welcome Lodge). The peak daytime population for such property is estimated at 7,131 persons, based on a ratio of 2.5 persons per single family residential unit and three (3) employees per 1,000 square feet of commercial space.

V. DESCRIPTION OF TYPES OF IMPROVEMENTS AND PROPOSED SERVICES

The following paragraphs provide a description of the types of improvements and existing and proposed future services to be provided by the District. The District has previously financed the construction of the Initial Improvements, as herein after defined, and is expected to provide such other improvements and services as are described in this Service Plan. Except as agreed to by Broomfield in the Subdivision Improvement Agreements and other development agreements and plans (collectively, the “SIAS”) between Broomfield and the Developer, Broomfield shall not be obligated to own, operate, or maintain any of the improvements provided by the District.
A. Types of Improvements. The District provides and plans to provide for the design, acquisition, construction, installation and financing of certain water, sanitation, street, safety protection, park and recreation, transportation, television relay and translation, and limited fire protection improvements and services within and without the District Boundaries. This Service Plan describes those improvements constructed and anticipated for construction. The improvements will benefit all of the property within the Development and the District. A general description of each type of improvement and service provided and to be provided by the District follows this paragraph. Certain of the improvements benefiting the property within the District Boundaries have been constructed and/or financed by the District or the Developer and are more particularly set forth on Exhibit D-1 (the “Initial Improvements”). The District also anticipates financing and/or acquiring those improvements planned to be constructed for the benefit of the property within the District Boundaries as more particularly set forth on Exhibit D-2 (the “Future Improvements”) (collectively, the Initial Improvements and the Future Improvements are referred to herein as the “Improvements”). The Improvements generally depicted and described on Exhibits E through I have been presented for illustration only. The exact design, subphasing of construction and location of the Improvements will be determined at the time of the submittal of the site development plan and, if approved by Broomfield, such decisions shall not be considered to be a material modification of this Service Plan. The District shall have the authority to finance improvements for such properties subject to the debt issuance limitations set forth in Section XI, Paragraph A hereof, and subject to the terms of the Amended and Restated IGA, as hereafter defined, with Broomfield.

1. Sanitation. The District shall have the power to provide for the design, acquisition, construction, financing, completion, and installation of a local sanitary sewage
collection and transmission system which may include, but shall not be limited to, collection mains and laterals, lift stations, transmission lines, and/or storm sewer, flood and surface drainage facilities and systems, including detention/retention ponds and associated irrigation facilities, and all necessary, incidental, and appurtenant facilities, land and easements, together with extensions of and improvements to said system within and without the District Boundaries. The District may provide for sanitary sewage collection and transmission through the purchase of capacity in existing collection mains and transmission lines.

It is anticipated that, following acceptance by Broomfield, Broomfield will own, operate and maintain the sanitation improvements constructed by the District in accordance with the SIAS. Stormwater improvements will either be owned and maintained by the District, Broomfield or an owner’s association.

2. Water. The District shall have the power to provide for the design, acquisition, construction, financing, completion, and installation of a complete potable and nonpotable local water, transmission, and distribution system, which may include, but shall not be limited to, transmission lines, distribution mains and laterals, pressure reducing stations, irrigation facilities, storage facilities, water supply, water rights, land and easements, and all necessary, incidental, and appurtenant facilities, together with extensions of and improvements to said system within and without the District Boundaries.

It is anticipated that Broomfield will own, operate and maintain the water system for the Development and any future included areas in accordance with the SIAS.

3. Streets. The District shall have the power to provide for the design, acquisition, construction, financing, completion, and installation of street improvements, including curbs, gutters, culverts, and other drainage facilities, acceleration and deceleration
lanes, sidewalks, bike paths and pedestrian ways, median islands, paving, lighting, parking lots, grading, landscaping and irrigation, together with all necessary, incidental, and appurtenant facilities, land and easements, together with extensions of and improvements to said facilities within and without the boundaries of the District.

It is anticipated that, following acceptance by Broomfield, Broomfield will own and maintain the streets and street improvements within the District in accordance with the SIAS.

4. **Safety Protection.** The District shall have the power to provide for the design, acquisition, construction, financing, completion, and installation of facilities and/or services for a system of traffic and safety controls and devices on streets and highways and at railroad crossings, including, but not limited to, signalization, signing and striping, together with all necessary, incidental, and appurtenant facilities, land and easements, together with extensions of and improvements to said facilities within and without the District Boundaries.

Following acceptance, all safety protection improvements will be transferred to Broomfield and/or the Colorado Department of Transportation for ownership, operation and maintenance in accordance with the SIAS.

5. **Park and Recreation.** The District shall have the power to provide for the design, acquisition, construction, financing, completion, and installation of parks and recreational facilities and programs including, but not limited to, parks, bike paths and pedestrian ways, open space, landscaping, cultural activities, water bodies, irrigation facilities, and other active and passive recreational facilities and programs, and all necessary, incidental and appurtenant facilities, land and easements, together with extensions of and improvements to said facilities within and without the District Boundaries.
Following acceptance, it is anticipated that the park and recreation improvements will be owned, operated and maintained by Broomfield and, subject to Broomfield's consent, some of the improvements may be owned by the District and operated and maintained by one or more owners associations in accordance with the SIAS.

6. **Transportation.** The District shall have the power to provide for the design, acquisition, construction, financing, completion, and installation of a system to transport the public by bus, rail, or any other means of conveyance, or combination thereof, or pursuant to contract, including park and ride facilities and parking lots, structures and facilities; together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems within and without the District Boundaries.

Following acceptance, any transportation improvements will be transferred to Broomfield, the Regional Transportation District, the Colorado Department of Transportation or other appropriate entity for ownership, operation and maintenance in accordance with the SIAS.

7. **Television Relay and Translation.** The District shall have the power to provide for the design, acquisition, construction, financing, completion, and installation of television relay and translation facilities and programs, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or programs within and without the District Boundaries.

Following acceptance, any television relay and translation improvements will be transferred to Broomfield for ownership, operation and maintenance in accordance with the SIAS.
8. **Fire Protection.** The Fire District currently provides fire protection service to property within the District Boundaries. The District shall have the limited power to provide for the financing of and design, acquisition, construction, completion, installation, operation and maintenance of facilities and equipment for fire protection, including fire stations, ambulance and emergency medical response and rescue services, diving and grappling stations and all necessary, incidental and appurtenant facilities, land and easements, together with extensions of and improvements to said systems within and without the boundaries of the District. Following acceptance, the fire protection improvements and facilities will be transferred to the Fire District for ownership, operation and maintenance. The District’s authority to provide limited fire protection services and facilities shall be subject to an agreement between the District and the Fire District pursuant to Section 32-1-107(3)(b)(IV), C.R.S. It is in the express intent of this Service Plan that the District’s authority to provide limited fire protection service and facilities shall be exercised cooperatively with the existing Fire District, rather than authorize the creation of an independent fire department as a part of the District.

9. **Other Powers.** In addition to the enumerated powers, the Board of Directors of the District shall also have the following authority:

   (a) **Plan Modifications.** This Service Plan shall be modified as provided herein in accordance with the statutory procedures set forth in Section 32-1-207, C.R.S.

   (b) **Phasing, Deferral.** Without modifying this Service Plan, to defer, forego, reschedule, or restructure the financing and construction of certain improvements and facilities, to better accommodate the pace of growth, resource availability, and potential inclusions of property within the District in accordance with Section III hereinabove.
(c) **Additional Services.** Except as specifically provided herein, to provide such additional services and exercise such powers as are expressly or impliedly granted to special districts by Colorado law, as the same may be amended from time to time.

(d) **Subdistricts.** The District shall have the authority pursuant to Section 32-1-1101(1)(f)(I), C.R.S. and Section 32-1-1101(1.5)(a) through (1.5)(e), C.R.S., to divide the District into one or more areas consistent with the services, programs and facilities to be furnished therein. Pursuant to 32-1-1101(1)(f)(I), C.R.S. if the Board of Directors of the District divides the District into one or more areas, the Board of Directors shall provide written notification of such action to City Council of the City and County through the City and County Manager and the City and County Attorney. The City Council of the City and County may elect, within thirty (30) days after such written notice, to treat the action as a material modification of this Service Plan in accordance with Section 32-1-207(2), C.R.S.

B. **Standards of Construction/Statement of Compatibility.**

1. The sanitary sewer treatment and/or collection facilities have been and will be designed, constructed and maintained in accordance with the standards of the Colorado Department of Health, Broomfield and other applicable local, state or federal rules and regulations.

2. The District's water system has been and will be constructed and maintained in accordance with the standards of Broomfield, the Colorado Department of Health or other jurisdictions, as appropriate.

3. All streets and safety protection facilities to be dedicated to Broomfield have been or will be constructed in accordance with the standards and specifications of Broomfield.
4. All storm sewers and facilities have been and will be constructed in accordance with the standards and specifications of Broomfield and other local jurisdictions, as appropriate.

5. All parks and recreational facilities and/or services have been and will be constructed in accordance with engineering and design requirements appropriate for the surrounding terrain, and shall not be incompatible with standards of Broomfield or other local public entities, as appropriate.

6. All transportation facilities and/or services have been and will be provided in accordance with the standards and specifications of Broomfield, if any, or other local public entities, as appropriate.

7. All television relay and translation facilities and/or programs have been and will be provided in accordance with the standards and specifications of Broomfield, if any, or other public entities, as appropriate.

8. All fire protection facilities and services have been and will be designed, constructed and maintained in accordance with the standards of the City and County, the Fire District and any other applicable local, state or federal rules and regulations.

The District will require its engineers to implement a plan to assure that the standards by which the facilities are to be constructed are compatible with the facilities of Broomfield and any other party which will have jurisdiction over the design and/or construction of such facilities. The District and its engineers shall consider whether the standards of any of the jurisdictions which are interested parties in the Service Plan proceedings as defined in the Colorado Revised Statutes, a list of which is attached as Exhibit C, are applicable to the facilities. To the extent any of the interested parties' standards are applicable to the facilities, the
District's engineers will assure that the standards by which the facilities are to be constructed are compatible with the facilities of such jurisdiction.

VI. DISSOLUTION

At the request of Broomfield, and in accordance with the terms of the Amended and Restated IGA (as defined below), or if the Board of Directors of the District deems it to be in the best interests of the District that the District be dissolved, the District shall initiate and diligently pursue dissolution in accordance with Section 32-1-701, et seq., C.R.S., at such time as: (1) Broomfield agrees to provide or cause to be provided substantially the same level of operations and maintenance (if any) of the District's facilities as the District has provided, (2) all of the proposed improvements and facilities have been constructed and conveyed to Broomfield or other appropriate entity, and (3) all debt incurred for such facilities has been repaid or arrangement for repayment has been made. The City Council of Broomfield may consent to the dissolution by resolution in accordance with the terms of the Amended and Restated IGA.

VII. PROPOSED AGREEMENTS

Intergovernmental Agreement with Broomfield. The District previously entered into an Intergovernmental Agreement with Broomfield dated September 27, 2005 (“Existing IGA”). The District and Broomfield shall amend and restate the Existing IGA to generally provide that: (1) the District shall take all action necessary to dissolve pursuant to Title 32, Article 1, Part 7, C.R.S., as amended from time to time in accordance with Section VI of this Service Plan; (2) the District shall not publish, without written consent of Broomfield, a notice under Section 32-1-207 (3), C.R.S. of its intent to undertake construction of any facility, the issuance of bonds or other financial obligation, the levy of taxes, the imposition of rates, fees, tolls and charges, or any other proposed activity of the District which requires that any action to enjoin such activity
as a material departure from the Service Plan be brought within forty-five (45) days of such notice; (3) prior to expanding its boundaries or services outside the District Boundaries, the District shall follow the notification procedure set forth in Section III of the Service Plan; and (4) prior to issuing bonds, the District shall provide Broomfield with a copy of the District's Bond Issuance Plan in accordance with Section XI, Paragraph A, of the Service Plan ("Amended and Restated IGA").

VIII. VOTER AUTHORIZATION.

Under the Original Service Plan, the District had the authority to obtain voter approval for the incurrence of general obligation debt in the total principal amount of One Hundred Eleven Million Dollars ($111,000,000) (other than refunding debt) ("Debt Authority"). At an election on November 6, 2001, the District obtained approval for the incurrence of general obligation debt in the amount of $51,500,000. At an election on May 7, 2002, the District obtained voter approval for the incurrence of general obligation debt in the amount of $59,600,000. Also at the May 7, 2002 election, the voters repealed the prior authorization of $50,000 for mosquito control and $50,000 for television and relay improvements. At an election held on November 2, 2004, the District obtained voter approval for the incurrence of general obligation debt in the amount of $111,000,000. As a result of those elections, the District has voter approval for general obligation debt in the amount of $222,000,000. Voter approval in excess of the Debt Authority in the Original Service Plan has been exceeded without modification of the Service Plan, however, the District has not issued general obligation bonds in excess of the Debt Authority. Notwithstanding the current total voter authorization of $222,000,000, the District shall not be authorized to issue general obligations bonds in excess of the Debt Authority (other than refunding debt as set forth in Section XI. B).
IX. **ASSESSED VALUATION**

The property within the District Boundaries has a 2008 assessed valuation of $31,481,020. The projected build-out and assessed valuation for the property within the District is set forth in the Financial Plan set forth in Exhibit J. At build-out, the assessed valuation of the property within the District is expected to be approximately One Hundred Nineteen Million Dollars ($119,000,000).

X. **ESTIMATED OPERATION COSTS**

Subject to the applicable warranty, the District intends to dedicate certain facilities constructed or acquired, to the appropriate jurisdiction for operations and maintenance.

Estimated costs for operation functions of the Districts are shown on the Financial Plan, attached as Exhibit A. The Financial Plan assumes the District will incur approximately Seventy-Five Thousand Dollars ($75,000) annually in administrative expenses, inflated at 1% per year. The Financial Plan reflects that the District will impose a mill levy of approximately two (2) mills to fund operation expenses. There are statutory and constitutional limits on the District’s ability to increase its mill levy for provision of operation and maintenance services without an election. The eligible electors of the District previously obtained electoral approval to waive the foregoing limitations at the election held on November 2, 2004. The Mill Levy Cap, defined below, proposed for repayment of bonds does not apply to the District’s ability to increase its mill levy as necessary for the provision of operation services to its taxpayers and service users.

In addition to the operations mill levy, the District may also rely upon various other revenue sources authorized by law and this Service Plan to offset the expenses of District management, operations and maintenance. These may include revenues from other
governmental entities and developers as well as the power to assess fees, rates, penalties, or charges as provided in Title 32, Article 1, C.R.S., as amended. The District shall have the authority to repay the Developer for amounts advanced for operations expenses together with accrued interest thereon and to seek electorate approval for such obligation to be deemed a multiple-fiscal year obligation, provided such obligation shall be subordinate to the District's bonds issued for capital improvements.

XI. FINANCIAL PLAN/PROPOSED INDEBTEDNESS

A. General. The Financial Plan attached hereto shows how the Improvements and/or services may be financed, including the estimated costs, if any, of acquiring land, engineering services, legal services, administrative services, existing and proposed indebtedness and existing and estimated proposed maximum interest rates and discounts, and other major expenses related to the operation of the District. The Financial Plan demonstrates that, at various projected levels of development, the District had the ability to finance the Initial Improvements and has the ability to finance the proposed Future Improvements identified herein, and will be capable of discharging the existing and proposed indebtedness on a reasonable basis.

The District will be responsible for financing the cost of the Improvements described on Exhibits D-1 and D-2. The provision of facilities by the District will be primarily financed by the issuance of general obligation bonds, secured by the ad valorem taxing authority of the District with limitations as discussed below. The District previously issued its General Obligation (Limited Tax Convertible to Unlimited Tax) Bonds, Series 2005 in the amount of Fifty-Six Million Dollars ($56,000,000) (“2005 Bonds”) for the financing of a portion of the Initial Improvements set forth on Exhibit D-1. A portion of the proceeds of the 2005 Bonds in the amount of $40,750,633.54 was used to reimburse the Developer for the costs of the Initial
Improvements, including interest thereon, of which $28,452,108.74 was paid at closing on the 2005 Bonds. In order to finance the Improvements, the Financial Plan demonstrates the issuance of a total of Sixty-Seven Million Seven Hundred Sixty-Five Thousand Dollars ($67,765,000) in general obligation bonds that includes the 2005 Bonds in the principal amount of $56,000,000 and Subordinate Cash Flow Bonds in the amount of Eleven Million Seven Hundred Sixty-Five Thousand Dollars ($11,765,000) for the financing of the Future Improvements set forth on Exhibit D-2 and for the acquisition of those Initial Improvements not previously acquired from the proceeds of the 2005 Bonds. The Financial Plan assumes the Subordinate Cash Flow Bonds will be issued in December 2009 to fund additional obligations of the District. The Subordinate Cash Flow Bonds will be paid by any amounts available after meeting the obligations of the 2005 Bonds. To the extent the available revenue generated is insufficient to pay interest, any unpaid amount will accrue and compound. Prior to the issuance of any additional general obligation debt, the construction costs for necessary Future Improvements may be paid by the Developer, subject to subsequent acquisition by the District of the completed Improvements and payment to the Developer of such construction costs and the interest thereon. The Financial Plan demonstrates the issuance of general obligation bonds and the anticipated repayment based on the projected development in the District.

Prior to issuance of any additional bonds, including the Subordinate Cash Flow Bonds or any refunding bonds, the District shall submit to Broomfield a financial plan which demonstrates the structure of the proposed bond transaction and the District's plan to pay the proposed bonds ("Bond Issuance Plan"). At least fifteen (15) days prior to submitting the Bond Issuance Plan, the District shall submit to Broomfield a Notice of Intent to Issue Bonds. The City and County Manager and City and County Attorney shall have forty-five (45) days from the date of receipt of
the Bond Issuance Plan in which to object to such Bond Issuance Plan. In the event Broomfield objects in writing within the forty-five (45) day period, the District shall proceed with the bond issuance only with the written consent of the City and County Manager and City and County Attorney, or their designees. Broomfield shall never be liable for any of the District's debt obligations. If Broomfield does not provide a written objection to the Bond Issuance Plan within forty-five (45) days of receipt, the District may proceed to issue the bonds in accordance with the Bond Issuance Plan.

B. Mill Levy/Facilities Fees. The property within the District Boundaries has a 2008 assessed valuation of $31,481,000. The District assesses a mill levy on all taxable property in the District as a primary source of revenue for repayment of debt service and, as discussed above, for operations. Although the mill levy may vary depending upon the decisions of the Board of Directors of the District, it is estimated that a mill levy of two (2) mills will produce revenue sufficient to support the District's operations and a mill levy of forty (40) mills (such mill levy reflects legislative adjustments that have occurred since 2001 as authorized below) will produce revenue sufficient to support debt retirement throughout the bond repayment period. Pursuant to the District’s 2005 Bonds, the District is obligated to impose the Required Mill Levy (which, as adjusted, is forty (40) mills) in order to ensure the full and timely payment on the 2005 Bonds. The total mill levy certified by the District in 2008 for collection in 2009 is forty-two (42.000) mills (two (2) mills for operations and maintenance and forty (40) mills for debt service).

The maximum voted interest rate is fifteen percent (15%) and the maximum discount at five percent (5%). The exact interest rates, terms and discounts will be determined at the time bonds are sold by the District, and will reflect market conditions at the time of sale. The District
may also issue notes, certificates, debentures or other evidences of indebtedness, including, but not limited to, contracts that extend beyond one year, on parity with or subordinate to debt issued pursuant to the Debt Authority, subject to the limitations set forth herein. Refunding bonds may be issued as determined by the Board of Directors and are not subject to the Debt Authority. The District may capitalize interest to permit payment of interest during the time lapse between development of taxable properties and the collection of significant tax revenues therefrom. Interest income through the reinvestment of construction funds, capitalized interest and annual tax receipts will provide additional funds. These revenue sources should be sufficient to retire the existing 2005 Bonds and the future proposed indebtedness if growth occurs as projected; otherwise, increases in the mill levy and/or the imposition of rates, tolls, fees and charges may be necessary, but in no event shall the debt service mill levy exceed the Mill Levy Cap, as defined below.

The Mill Levy Cap shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of debt, and shall be determined as follows:

For the portion of any debt which exceeds fifty percent (50%) of the District’s assessed valuation, the Mill Levy Cap for such portion of debt shall be 39.5 mills less the number of mills necessary to pay unlimited mill levy debt described below; provided that if, on or after January 1, 2001, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board of Directors of the District in good faith so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2001, are
neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation. For 2009, the Mill Levy Cap, as adjusted, is 45.410 mills and the District imposed a debt service mill levy of forty (40) mills for collection in 2009.

For the portion of any District debt which is equal to or less than fifty percent (50%) of the District’s assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of debt shall not be subject to the Mill Levy Cap and, as a result, the mill levy may be such amount as is necessary to pay the debt service on such debt, without limitation of rate.

Once debt has been determined to be not subject to the Mill Levy Cap, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District’s debt to assessed ratio. All debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of Colorado law.

The District currently assesses a one-time “Facilities Fee” against the property within its boundaries. All revenues received from the Facilities Fee are expected to be pledged for the repayment of principal and interest on the bonds. The Facilities Fee is currently assessed at a rate of $2,500 per single family residential unit, which amount may be increased or decreased by the District. The obligation of the property owner to pay the Facilities Fee creates a perpetual statutory lien on the property within the District Boundaries. In addition, the District may impose a facilities fee on commercial property within the District which may be pledged for the repayment of principal and interest on the bonds.
C. Other Revenues. In addition to the mill levy and Facilities Fees, the District may also rely upon various other revenue sources authorized by law and this Service Plan to finance the costs of the Improvements and the issuance of additional bonds, including but not limited to revenues from Broomfield and/or the Developer pursuant to any reimbursement agreements between the District, the Developer and/or Broomfield.

D. Cost Summary and Bond Development. The Financial Plan reflects the amount of bonds to be sold to finance the completion, construction, acquisition and/or installation of the Improvements, including the Subordinate Cash Flow Bonds. The amount of bonds sold will be based upon the final engineering estimates and/or actual construction contracts. Organizational costs, including legal fees, accounting fees, and capitalized engineering costs, were previously paid from the proceeds of the 2005 Bonds. The interest rates on the Subordinate Cash Flow Bonds as set forth in the Financial Plan are based upon the advice of D.A. Davidson & Co., in its capacity as the financial advisor to the District.

The Financial Plan projects the anticipated flow of funds and is based upon estimates of construction and project needs for bond proceeds to finance the Improvements. The District's engineer has evaluated the timing and cost estimate of the Improvements which are necessary to support the proposed absorptions of development as projected in the Financial Plan and has concurred with the assumptions. The Financial Plan sets forth a reasonable estimate of growth within the District and allows the Board of Directors a measure of flexibility such that the District need not incur debt in excess of what it needs to meet a growing population's demands for facilities and services.

Provided that the District has complied with the Bond Issuance Plan, the issuance of general obligation bonds shall be deemed to be in compliance with the Financial Plan as long as
the Minimum Criteria, as hereinafter defined, have been met. Minimum Criteria shall mean that
the general obligation bonds are: (1) subject to a Mill Levy Cap, if required by the Service Plan;
(2) together with other outstanding general obligations bonds, not in excess of the general
obligation debt authorization set forth in this Service Plan, as may be amended from time to
time; and (3) together with other outstanding general obligation bonds, not in excess of the
general obligation Debt Authority approved by the District's electorate.

E. Economic Viability. For purposes of developing the Financial Plan set forth
herein, it was assumed that a total of 2,797 residential units and an estimated total of 41,000
square feet of commercial space will be developed during the years 2005 through 2016. As of
the date of submittal of this Service Plan approximately 885 residential units and less than 5,000
square feet of commercial property has been constructed. It is also assumed that the increase in
the assessed valuation from new construction will be realized one year after such construction
and that tax collections will be realized two years after such construction.

F. Enterprises. The District’s Board may set up enterprises to manage, fund and
operate such facilities, services and programs as may qualify for enterprise status using the
procedures and criteria provided by Article X, Section 20, Colorado State Constitution. To the
extent provided by law, any enterprise created by the District will remain under the control of the
Board.

XII. OTHER REQUIREMENTS

The District shall be subject to the following additional requirements:

A. Submission of annual reports as described in Section 32-1-207(3), C.R.S., in the
form prescribed by Broomfield.
B. Material modifications of this Service Plan, except as contemplated herein, shall be subject to approval by Broomfield in accordance with the provisions of Section 32-1-207, C.R.S. and pursuant to the IGA.

XIII. CONCLUSION

It is submitted that this First Modification to and Restatement of Original Service Plan for Northwest Metropolitan District No. 3 (to be known as Anthem West Metropolitan District), as required by Section 32-1-203(2), C.R.S., establishes that:

A. There is sufficient existing and projected need for organized service in the area to be serviced by the District;

B. The existing service in the area to be served by the District is inadequate for present and projected needs;

C. The District is capable of providing economical and sufficient service to the area within its boundaries; and

D. The area to be included in the District does have, and will have, the financial ability to discharge the existing and proposed indebtedness on a reasonable basis.
EXHIBIT A-1

Legal Description of District Boundaries
March 5, 2009

PROPERTY DESCRIPTION
District 3

A parcel of land lying in portions of Sections 4, 5, 6, 7 and 8, Township 1 South, Range 68 West of the 6th Principal Meridian, City and County of Broomfield, State of Colorado, being more particularly described as follows:

BEGINNING at the West Quarter corner of said Section 7 (a found 2" iron pipe with aluminum plug);
WHENCE the Northwest corner of said Section 7 (a found 2 ½" aluminum cap down 0.7" stamped "WM STENGEL RLS 4846") bears N00°10'29"W a distance of 2641.31 feet;
THENCE N00°10'29"W along the westerly line of the Northwest Quarter of said Section 7 a distance of 2641.31 feet;
THENCE N00°15'39"W along the westerly line of the Southwest Quarter of said Section 6 a distance of 2634.52 feet;
THENCE N00°14'51"W along the westerly line of the Northwest Quarter of said Section 6 a distance of 2260.19 feet;
THENCE N89°40'36"E W along a line being 75.00 feet southerly of and parallel with the northerly line of the Northwest Quarter of said Section 6 a distance of 2402.18 feet;
THENCE the following five (5) courses along the southerly line of Colorado Department of Highways Federal Aid Project No. S0048(1) State Highway No. 7 1964:
1. THENCE S45°11'48"E a distance of 70.55 feet;
2. THENCE N89°40'36"E a distance of 5.00 feet;
3. THENCE N89°40'36"E a distance of 30.00 feet;
4. THENCE N89°40'36"E a distance of 30.00 feet;
5. THENCE N44°40'38"E a distance of 70.71 feet;
THENCE N89°40'36"E along a line being 75.00 feet southerly of and parallel with the northerly line of the Northeast Quarter of said Section 6 a distance of 2563.28 feet;
THENCE N89°37'11"E along a line being 75.00 feet southerly of and parallel with the northerly line of the Northwest Quarter of said Section 5 a distance of 2614.20 feet;
THENCE N89°38'18"E along a line being 75.00 feet southerly of and parallel with the northerly line of the Northeast Quarter of said Section 5 a distance of 2614.35 feet;
THENCE N89°35'50"E along a line being 75.00 feet southerly of and parallel with the northerly line of the Northwest Quarter of said Section 4 a distance of 1197.06 feet;
THENCE the following fifteen (15) courses along the easterly line of the Farmer's Reservoir and Irrigation Company ditch as described at Reception No. 2004002794 recorded in the City & County of Broomfield Clerk & Recorder's Office on February 25, 2004:

1. S04°49'09"W non-tangent with the following described curve a distance of 105.74 feet;
2. THENCE along the arc of a curve to the right, having a central angle of 34°14'11", a radius of 301.54 feet, a chord bearing of S40°22'52"W a distance of 177.52 feet, and an arc distance of 180.18 feet;
3. THENCE S54°10'01"W non-tangent with the last described curve a distance of 558.73 feet;
4. THENCE along the arc of a curve to the left, having a central angle of 16°34'24", a radius of 1131.28 feet, a chord bearing of S44°41'20"W a distance of 326.09 feet, and an arc distance of 327.23 feet;
5. THENCE S36°03'00"W non-tangent with the last described curve a distance of 389.85 feet;
6. THENCE S35°49'39"W non-tangent with the following described curve a distance of 325.50 feet;
7. THENCE along the arc of a curve to the left, having a central angle of 35°38'33", a radius of 189.15 feet, a chord bearing of S21°31'43"W a distance of 115.78 feet, and an arc distance of 117.67 feet;
8. THENCE along the arc of a curve to the right, non-tangent with the last described curve, having a central angle of 54°33'08", a radius of 343.49 feet, a chord bearing of S40°03'13"W a distance of 314.82 feet, and an arc distance of 327.04 feet;
9. THENCE S68°30'15"W non-tangent with the last described curve a distance of 88.21 feet;
10. THENCE S70°55'12"W non-tangent with the following described curve a distance of 87.76 feet;
11. THENCE along the arc of a curve to the left, having a central angle of 27°54'24", a radius of 626.12 feet, a chord bearing of S58°45'07"W a distance of 301.95 feet, and an arc distance of 304.96 feet;
12. THENCE S46°28'25"W non-tangent with the last described curve a distance of 104.24 feet;
13. THENCE S44°48'13"W a distance of 101.93 feet;
14. THENCE S44°08'32"W a distance of 109.24 feet;
15. THENCE S45°52'39"W a distance of 47.36 feet;
THENCE S36°42'48"E along the easterly line of Outlot 7, Preble Creek Filing No. 2, recorded at the City & County of Broomfield Clerk & Recorder's Office at Reception No. 2004005785 on April 23, 2004 a distance of 325.19 feet;
THENCE the following four (4) courses along the southerly line of Preble Creek Parkway as dedicated by Preble Creek Filing No. 1, recorded at the City & County of Broomfield Clerk & Recorder's Office at Reception No. 2004005783 on April 23, 2004:

1. along the arc of a curve to the left, having a central angle of 26°18'22", a radius of 838.50 feet, a chord bearing of S58°10'57"W a distance of 381.61 feet, and an arc distance of 384.98 feet;
2. THENCE S45°01'46"W tangent with the last and following described curves a distance of 300.82 feet;
3. THENCE along the arc of a curve to the right, having a central angle of 41°11'10", a radius of 711.50 feet, a chord bearing S65°37'21"W a distance of 500.51 feet, and an arc distance of 511.45 feet;
4. THENCE S86°12'56"W tangent with the last described curve a distance of 134.73 feet;
THENCE the following courses twenty seven (27) courses along the easterly line of said Farmer's Reservoir and Irrigation Company ditch:
1. S51°28'11"W a distance of 379.73 feet;
2. THENCE S50°18'36"W a distance of 101.42 feet;
3. THENCE S51°24'34"W a distance of 200.55 feet;
4. THENCE S53°46'21"W non-tangent with the following described curve a distance of 123.01 feet;
5. THENCE along the arc of a curve to the left, having a central angle of 41°17'18", a radius of 212.00 feet, a chord bearing of S33°40'24"W a distance of 149.49 feet, and an arc distance of 152.77 feet;
6. THENCE S12°55'37"W non-tangent with the last described curve a distance of 66.46 feet;
7. THENCE S17°35'24"W a distance of 37.25 feet;  
8. THENCE S19°03'51"W a distance of 101.08 feet;  
9. THENCE S17°22'45"W non-tangent with the following described curve a distance of 121.15 feet;  
10. THENCE along the arc of a curve to the left, having a central angle of 54°10'13", a radius of 240.36 feet, a chord bearing of S01°07'12"E a distance of 218.88 feet, and an arc distance of 227.25 feet;  
11. THENCE S24°12'22"E non-tangent with the last described curve a distance of 55.08 feet;  
12. THENCE S34°08'27"E a distance of 56.79 feet;  
13. THENCE S37°20'57"E a distance of 107.71 feet;  
14. THENCE S39°13'49"E a distance of 54.79 feet;  
15. THENCE S42°43'09"E a distance of 52.87 feet;  
16. THENCE S51°07'11"E non-tangent with the following described curve a distance of 57.27 feet;  
17. THENCE along the arc of a curve to the right, having a central angle of 40°09'31", a radius of 564.78 feet, a chord bearing of S33°16'44"E a distance of 387.80 feet, and an arc distance of 395.86 feet;  
18. THENCE S03°20'26"E non-tangent with the last described curve a distance of 64.76 feet;  
19. THENCE S01°14'17"W a distance of 93.76 feet;  
20. THENCE S01°49'58"W a distance of 102.65 feet;  
21. THENCE S01°36'14"W a distance of 82.56 feet;  
22. THENCE S05°17'18"W a distance of 158.00 feet;  
23. THENCE S13°35'17"W a distance of 54.05 feet;  
24. THENCE S17°13'13"W non-tangent with the following described curve a distance of 100.39 feet;  
25. THENCE along the arc of a curve to the right, having a central angle of 20°43'12", a radius of 311.82 feet, a chord bearing of S26°48'12"W a distance of 112.15 feet, and an arc distance of 112.76 feet;  
26. THENCE S33°09'50"E non-tangent with the last described curve a distance of 102.34 feet;  
27. THENCE S36°21'41"W a distance of 120.17 feet;  

THENCE the following four (4) courses along the northerly line and easterly lines of a parcel of land described in Book 3517, Page 192, recorded at the Adams County Clerk & Recorder’s Office on December 9, 1988:  
1. N73°33'30"E a distance of 31.92 feet;  
2. THENCE N70°07'07"E a distance of 1462.01 feet;  
3. THENCE N81°40'36"E a distance of 1091.61 feet;  
4. THENCE S00°33'06"E along the easterly line of the Northeast Quarter of said Section 8 a distance of 797.45 feet;  

THENCE the following three (3) courses along the easterly and southerly lines of Parcel TK-7-RT Rev. 1 as described at Reception No. 2001001080, recorded at the City & County of Broomfield Clerk & Recorder’s Office on December 20, 2001:  
1. S00°33'13"E non-tangent with the following described curve a distance of 217.28 feet;  
2. THENCE along the arc of a curve to the right, having a central angle of 12°48'57", a radius of 1999.86 feet, a chord bearing of S83°35'31"W a distance of 446.40 feet, and an arc distance of 447.33 feet;  
3. THENCE N89°59'56"W non-tangent with the last described curve a distance of 245.78 feet;
THENCE the following four (4) courses along the southerly line of Sheridan Parkway as dedicated by said Preble Creek Filing No. 1:

1. S11°00'00"W tangent with the following described curve a distance of 414.70 feet;
2. THENCE along the arc of a curve to the right, having a central angle of 75°49'23", a radius of 777.00 feet, a chord bearing S48°54'41"W a distance of 954.85 feet, and an arc distance of 1028.25 feet;
3. THENCE S86°49'23"W tangent with the last and following described curves a distance of 1090.90 feet;
4. THENCE along the arc of a curve to the left, having a central angle of 11°57'13", a radius of 2423.00 feet, a chord bearing S80°50'46"W a distance of 504.60 feet, and an arc distance of 505.52 feet;

THENCE S29°59'48"E non-tangent with the last described curve and along the southwesterly line of Outlot 9, said Preble Creek Filing No. 1 and the extension thereof a distance of 307.41 feet;
THENCE S90°00'00"E along the southerly line of said Outlot 9 a distance of 319.52 feet;
THENCE S00°47'51 along the easterly line of the Southwest Quarter of said Section 8 a distance of 2644.48 feet;
THENCE S89°35'07"W along the southerly line of the Southwest Quarter of said Section 8 a distance of 2640.55 feet;
THENCE N00°55'27"W along the westerly line of the Southwest Quarter of said Section 8 a distance of 2647.10 feet;
THENCE S89°26'43"W along the southerly line of the Northeast Quarter of said Section 7 a distance of 2628.07 feet;
THENCE S89°27'53"W along the southerly line of the Northwest Quarter of said Section 7 a distance of 686.12 feet;
THENCE the following six (6) courses along the northerly and westerly lines of Parcel No. TK-11 LT REV-1 of the Northwest Parkway Public Highway Authority recorded at the City and County of Broomfield Clerk & Recorder’s Office at Reception number 2004004470 on March 31, 2004

1. S73°35'25"W a distance of 970.91 feet;
2. THENCE S72°05'25"W tangent with the following described curve a distance of 68.63 feet;
3. THENCE along the arc of a curve to the left, having a central angle of 9°34'51", a radius of 3969.71 feet, a chord bearing S67°18'00"W a distance of 663.04 feet, and an arc distance of 663.81 feet;
4. THENCE S62°30'34"W tangent with the last described curve a distance of 68.63 feet;
5. THENCE S61°00'34"W a distance of 119.57 feet;
6. THENCE N00°13'06"W along the westerly line of the Southwest Quarter of said Section 7 a distance of 624.31 feet to the POINT OF BEGINNING.

Containing 1,777.15 Gross Acres, more or less.

Less and Except:

1) Book 3517 Page 192 (City of Broomfield/Northwest Parkway) 91.44 Ac+-

2) The following parcels conveyed to the Northwest Parkway Public Highway Authority under reception numbers 2001001080 and 2001001086:
TK-7-RT Rev 1 10.62 Ac+-
TK-7 & 8 RT 0.11 Ac+-
TK-8-RT Rev 1 0.49 Ac+-
TK 10-3-LT 1.64 Ac+-
3) The following parcels conveyed to the City and County of Broomfield by Preble Creek Filing No. 1, recorded at Reception number 2004005783 on April 23, 2004:

- Parcel A & Outlot 13 22.78 Ac+-
- Parcel B 22.67 Ac+-
- A portion of Parcel C 10.58 Ac+-

4) The following parcels conveyed to the City and County of Broomfield by Preble Creek Filing No. 2, recorded at Reception number 2004005785 on April 23, 2004:

- Outlot 1 5.10 Ac+-
- Outlot 3 11.14 Ac+-
- Outlot 4 15.56 Ac+-
- Outlot 5 6.78 Ac+-
- Outlot 6 6.09 Ac+-
- Outlot 9 93.80 Ac+-
- Outlot 10 2.90 Ac+-
- Right of Way 34.07 Ac+-

5) The following parcel conveyed to the City and County of Broomfield by Anthem Filing No. 1, recorded at Reception number 2005005452 on April 27, 2005:

- Lot 2, Block 1 0.63 Ac+-

6) The following parcel conveyed to the City and County of Broomfield by Anthem Filing No. 3, recorded at Reception number 2005011229 on August 18, 2005:

- Right of Way 3.45 Ac+-

7) The following parcel conveyed to the City and County of Broomfield by Anthem Filing No. 6, recorded at Reception No. 2005012171 on September 6, 2005:

- Outlot 2 1.95 Ac+-

8) The following parcel conveyed to the City and County of Broomfield by Anthem Filing No. 11, recorded at Reception No. 2007007362 on September 6, 2005:

- Tract A 45.45 Ac+-
- Lot 1, Block 1 12.00 Ac+-

9) 160th Avenue (60' ROW) 11.93 Ac+-

10) Alignment of Community Ditch (50' ROW) as constructed 8.24 Ac+-

Total Exceptions = 419.42 Ac+-
Total Net Area = 1357.86Ac +
BASIS OF BEARING

Bearings are based upon (2) Broomfield Colorado GPS Control (Modified State Plane - Colorado North Zone) - GIS LAND POSITION corners "Lucy" (found 3” brass disk set into 18” round concrete post stamped "CITY OF BROOMFIELD LUCY GPS NO. 15") and "GPS #4" (found 3 1/4” brass disk set into 18” round concrete post stamped "CITY OF BROOMFIELD 1995 GPS NO. 4" bearing being S50°56'38"W a distance of 9603.05 feet.

Prepared by:
Daniel G. Wolken PLS 38010
For and on behalf of
Jacobs Engineering Group
707 17th Street #2300
Denver, Colorado 80202
(303) 820-5240
EXHIBIT A-2

Boundary Map of District Boundaries
EXHIBIT B

Vicinity Map
**EXHIBIT C**

List of Interested Parties

<table>
<thead>
<tr>
<th>Adams 12 School District</th>
<th>Aims Community College</th>
</tr>
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<tbody>
<tr>
<td>1500 E. 128th Avenue</td>
<td>P.O. Box 69</td>
</tr>
<tr>
<td>Thornton, CO 80241-2601</td>
<td>Greeley, CO 80632</td>
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<th>Arista Metropolitan District</th>
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<td>13150 W. 72nd Avenue Arvada, CO 80005-3116</td>
<td>141 Union Boulevard, Ste. 150</td>
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<tr>
<td></td>
<td>c/o Special District Management Services, Inc.</td>
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<th>BBC/Overlook Metropolitan District</th>
<th>Board of County Commissioners</th>
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<tr>
<td>1805 Shea Center Drive, Suite 100</td>
<td>City and County of Broomfield</td>
</tr>
<tr>
<td>c/o White Bear Ankele, P.C.</td>
<td>One DesCombes Drive</td>
</tr>
<tr>
<td>Highlands Ranch, CO 80129-2252</td>
<td>Broomfield, CO 80020</td>
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<tr>
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<th>Boulder Valley Soil Conservation District</th>
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<tr>
<td>PO Box 9011 Boulder, CO 80301</td>
<td>9595 Nelson Road, Box D Longmont, CO 80501</td>
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<thead>
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<td>630 S. 8th Street Brighton, CO 80601-3295</td>
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<tr>
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<td>One DesCombes Drive Broomfield, CO 80020</td>
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<td>One DesCombes Drive Broomfield, CO 80020</td>
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<td>1313 Sherman St., Suite 521</td>
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<td>-----------------------------------------------</td>
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<td>141 Union Boulevard, Ste. 150</td>
<td>1801 California Street, Suite 4300</td>
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<td>c/o Collins Cockrel &amp; Cole, P.C.</td>
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<td>c/o White Bear Ankele, P.C.</td>
<td>c/o Special District Management</td>
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<td>141 Union Boulevard, Ste. 150</td>
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<td>Berthoud, CO 80513-9245</td>
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<td>8390 E. Crescent Parkway, Suite 500</td>
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<td>Northwest Metropolitan District No. 4</td>
<td>Palisade Metropolitan District No. 1</td>
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<td>c/o Special District Management</td>
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<td>395 S. Pratt Parkway</td>
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<td>13150 W. 72nd Avenue</td>
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<th>West Adams Soil Conservation District</th>
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<td>224 South 14th Avenue</td>
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EXHIBIT D-1

Description of Initial Improvements
## Northwest Metropolitan District
### District #3 SFR
### Constructed Cost Projection

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<th>UNIT</th>
<th>QTY</th>
<th>UNIT COST</th>
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<tr>
<td>Force Main #2</td>
<td>LF</td>
<td>21,000</td>
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<tr>
<td>Gravity Mains &amp; Manholes</td>
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## Drainage Improvements
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EXHIBIT D-2

Description of Future Improvements and Costs
## Planned Coat Projection

### Northwest Metropolitan District
#### District #3 SFR

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<th>DESCRIPTION</th>
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<tr>
<td>Piping, valves, fire hydrants</td>
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<tr>
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<tr>
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<tr>
<td>Preble Creek Parkway</td>
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<tr>
<td>2 Lanes (ROW varies)</td>
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<td>7,862</td>
<td>$1,100.00</td>
<td>$3,026,793.00</td>
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<td>Baseline Road/CO Hwy 7</td>
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**Northwest Metropolitan District**  
**District #3 SFR**  
**Planned Cost Projection**

<table>
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<td><strong>Drainage Improvements</strong></td>
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EXHIBIT E

Sanitation Improvements
EXHIBIT F

Water Improvements
EXHIBIT G

Streets and Safety Protection Improvements
EXHIBIT H

Drainage Improvements
EXHIBIT I

Park and Recreation Improvements
EXHIBIT J

Financial Plan
## NORTHWEST METROPOLITAN DISTRICT #3

Revised Development Projection at 40,000 MLD Laryx Target for Debt Service


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<th>YEAR</th>
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<th>Present Value of Commercial (PV)</th>
<th>Total Present Value of Future Net Revenue (PV)</th>
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Notes:
- Present Value of Residential (PV) = Revenue Present Value of Residential
- Present Value of Commercial (PV) = Revenue Present Value of Commercial
- Total Present Value of Future Net Revenue (PV) = Present Value of Residential (PV) + Present Value of Commercial (PV)
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<th>Other City Revenues</th>
<th>Surplus</th>
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<th>Surplus</th>
<th>Federal Assistance</th>
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<th>Total Debt Service</th>
<th>Total Surplus</th>
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**Surplus Cash Flows Bonds**

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**Notes:**
- Surplus Cash Flows Bonds represent the excess of available funds over required payments.
- Interest represents the interest earned on the bonds.
- Less than of Current Period indicates the amount of interest that is less than the current period.
- Cum. Bal. of Principal represents the cumulative balance of principal.

Prepared by: John Doe, Treasury Officer
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Prepared by C.A. Duhaime & Co
(Not for Department purposes only)
### Residential Development

#### TCG 5 (Pulse)

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#### TCG 6 (Pulse)

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#### NH 5 Custom (Pulse)

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|     | 300 | 300 | 61,948,992 | 388 | 388 | 114,279,571 | 547 | 547 | 200,484,089 |     |     |     |     |     |

Prepared by D.A. Davidson & Co.

2/9/2009  D NWMD#3 Fin Plan 09
### Residential Summary

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<th>Total Del Webb Price</th>
<th>Total Del Webb Market Value</th>
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<th>Total Facility Fees @ $2,400 SF/Unit</th>
<th>Total Taxable Constructed Cost @ Average of $35/SF</th>
<th>Total Use Taxes @ 2.45%</th>
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*Prepared @ closing assumes 2,963 units*
### Commercial Development

#### 10 Acre Retail

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<th>Completed 41,000</th>
<th>Market Value</th>
<th>Total Commercial</th>
<th>Total Commercial Facility Fees @ 1,000/SF</th>
<th>Value of Platted &amp; Developed Lots</th>
<th>Adjustment [1]</th>
<th>Adjusted Value</th>
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**Total**

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<th>Market Value</th>
<th>Total Commercial</th>
<th>Total Commercial Facility Fees @ 1,000/SF</th>
<th>Value of Platted &amp; Developed Lots</th>
<th>Adjustment [1]</th>
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[1] Adj. to actual/prelim. AV

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**Commercial Summary**

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<th>Value of Platted &amp; Developed Lots</th>
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<th>Adjusted Value</th>
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<td>(1,529,878)</td>
<td>(3,085,925)</td>
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<td>0</td>
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<td>(1,244,817)</td>
<td>2,071,177</td>
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<td>2010</td>
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<td>(1,745,543)</td>
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<td>2011</td>
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<td>(1,839,857)</td>
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<td>410,000</td>
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<td>(3,181,811)</td>
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<td>(2,709,299)</td>
<td>(9,411,874)</td>
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<td>(1,509,650)</td>
<td>(5,459,816)</td>
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<td>(4,753,876)</td>
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<td>(175,228)</td>
<td>(1,064,604)</td>
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**Total**

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<tr>
<th>SF Value @ 10%</th>
<th>Completed 41,000</th>
<th>Market Value</th>
<th>Total Commercial</th>
<th>Total Commercial Facility Fees @ 1,000/SF</th>
<th>Value of Platted &amp; Developed Lots</th>
<th>Adjustment [1]</th>
<th>Adjusted Value</th>
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<td>4,617,266</td>
<td>4,617,266</td>
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[1] Adj. to actual/prelim. AV
EXHIBIT K

Voted Authorization and Remaining Debt Authority Pursuant to November 4, 2002 Election

<table>
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<tr>
<th>CAPITAL IMPROVEMENT PURPOSE</th>
<th>PRINCIPAL AMOUNT VOTED</th>
<th>PRINCIPAL AMOUNT OF AUTHORIZATION USED FOR SERIES 2005 BONDS</th>
<th>PRINCIPAL AMOUNT OF AUTHORIZATION REMAINING</th>
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<td>Streets</td>
<td>$70,760,000</td>
<td>$34,943,849</td>
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<td>Park and recreation</td>
<td>$19,205,000</td>
<td>$9,926,399</td>
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</tr>
<tr>
<td>Tv relay/translation</td>
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<td></td>
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<tr>
<td><strong>TOTAL:</strong></td>
<td><strong>$111,000,000</strong>*</td>
<td><strong>$56,000,000</strong></td>
<td><strong>$55,000,000</strong></td>
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* An additional $111,000,000 was voted at the November 2, 2004 election for the refunding of District debt that is not subject to the Debt Authority.
RESOLUTION NO. 2009-45

A RESOLUTION AUTHORIZING AN AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY AND COUNTY OF BROOMFIELD, COLORADO AND NORTHWEST METROPOLITAN DISTRICT NO. 3, TO BE KNOWN AS ANTHEM WEST METROPOLITAN DISTRICT.

WHEREAS, the City Council of the City of Broomfield, Colorado (the "City") on September 18, 2001, adopted Resolution No. 2001-253, which determined that the requirements for the filing of the Service Plan (the "Original Service Plan") for Northwest Metropolitan District No. 3 ("District No. 3") and the organization of District No. 3 had been fulfilled; and

WHEREAS, on and after November 15, 2001, the City and County of Broomfield, Colorado (the "City and County") succeeded to all rights of the City; and

WHEREAS, on May 20, 2002, District No. 3 was organized by recordation of an Order and Decree creating District No. 3 issued by the District Court of Adams County on January 2, 2002, as amended on April 9, 2002; and

WHEREAS, the terms of the Original Service Plan required District No. 3 to enter into an Intergovernmental Agreement with the City and County to provide for dissolution of District No. 3 and to otherwise implement the provisions of the Original Service Plan; and

WHEREAS, the City Council of the City and County on September 27, 2005, adopted Resolution No. 2005-108, which approved an Intergovernmental Agreement dated September 27, 2005 (the "Original Intergovernmental Agreement") between the City and County and District No. 3; and

WHEREAS, there was presented to the City and County on March 10, 2009, the First Modification to and Restatement of Original Service Plan for District No. 3 (the "First Modification to Original Service Plan"); and

WHEREAS, the terms of the First Modification to Original Service Plan require District No. 3 to amend and restate the Original Intergovernmental Agreement with the City and County to provide for dissolution of the District No. 3 and to otherwise implement the provisions of the First Modification to Original Service Plan; and

WHEREAS, there has been presented to the City and County the Amended and Restated Intergovernmental Agreement (the "Amended and Restated Intergovernmental Agreement") between the City and County and District No. 3; and

WHEREAS, it is necessary for the City and County to authorize the execution of the Amended and Restated Intergovernmental Agreement.
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. That the Mayor or Mayor Pro Tem is authorized to sign and the City and County Clerk to attest, in the form approved by the City and County Attorney, the Amended and Restated Intergovernmental Agreement by and between the City and County of Broomfield and Northwest Metropolitan District No. 3, to be known as Anthem West Metropolitan District, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

Section 2. That the City and County Attorney and the City and County Manager are authorized to approve changes on behalf of the City and County of Broomfield to the Amended and Restated Intergovernmental Agreement.

Section 3. That this Resolution is effective upon its approval by the City Council.

ADOPTED AND APPROVED this 10th day of March, 2009.

CITY AND COUNTY OF BROOMFIELD,
COLORADO

Mayor

ATTEST

City and County Clerk

APPROVED AS TO FORM:

Hahn, Smith, Walsh & Mancuso, P.C.
EXHIBIT A
AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT

This AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into effective as of this 10th day of March 2009, by and between NORTHWEST METROPOLITAN DISTRICT NO. 3 (to be known as Anthem West Metropolitan District), a quasi-municipal corporation and political subdivision of the State of Colorado (the "District") and the CITY AND COUNTY OF BROOMFIELD, a Colorado municipal corporation ("City and County" or the "City") (collectively the "Parties").

RECITALS

WHEREAS, Section 18 (2) (a) of Article XIV of the Constitution of the State of Colorado provides that nothing therein shall be construed to prohibit the State or any of its political subdivisions from cooperating or contracting with one another to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes, or the incurring of debt; and

WHEREAS, Section 29-1-203, C.R.S., as amended, authorizes and enables governments of the State of Colorado to enter into cooperative agreements or contracts; and

WHEREAS, as was required by the District's Service Plan approved by the City on September 18, 2001 ("Original Service Plan"), the District and the City and County entered into an Intergovernmental Agreement dated September 27, 2005 (the "Original Intergovernmental Agreement"); and

WHEREAS, after a hearing held on March 10, 2009, the City and County subsequently approved a First Modification to and Restatement of Original Service Plan for Northwest Metropolitan District No. 3 (to be known as Anthem West Metropolitan District) ("First Modification to Original Service Plan"); and

WHEREAS, the First Modification to Original Service Plan requires an amendment to and restatement of the Original Intergovernmental Agreement; and

WHEREAS, the Parties desire to amend and restate the Original Intergovernmental Agreement and replace it entirely with this Agreement to set forth their agreement as contemplated by the First Modification to Original Service Plan.

NOW THEREFORE, in consideration of the mutual covenants and stipulations contained herein, the Parties hereby agree as follows:

1. Dissolution. As provided in Section VI of the First Modification to Original Service Plan, the District hereby agrees that it, at the request of the City and County, or if the Board of Directors of the District deems it to be in the best interests of the District that the District be dissolved, the District shall initiate and diligently pursue dissolution in accordance with Section 32-1-701, et seq., C.R.S., at such time as: (a) the City and County agrees to provide, or cause to be provided, substantially the same level of operations and maintenance of the District's facilities as the District has provided; (b) all of the proposed improvements and facilities contemplated in the First Modification to Original Service Plan have been constructed.
and conveyed to the City and County or other appropriate entity; and (c) all certain proposed
debt incurred for such facilities has been repaid or arrangement for repayment has been made.

2.  Notice Pursuant to 32-1-207 (3), C.R.S. The District hereby agrees that it shall
not publish, without receiving the written consent of the City and County, a notice under Section
32-1-207 (3), C.R.S. of its intent to undertake construction of any facility, the issuance of bonds
or other financial obligation, the levy of taxes, the imposition of rates, fees, tolls and charges, or
any other proposed activity of the District which requires that any action to enjoin such activity
as a material departure from the First Modification to Original Service Plan be brought within
forty-five (45) days of such notice.

3.  Construction of Improvements. The Parties acknowledge that as a consequence
of the District’s organization, the District assumed certain development obligations of JPB
Holdings, LLC and the Pulte Home Corporation, or their successors or assigns (collectively, the
“Developer”), as set forth in the Preble Creek PUD Managed Growth and Development
Agreement between the Developer and the City executed on April 24, 2001 and has or will
assume certain development rights and obligations of Pulte Home Corporation (“Pulte”) pursuant
to that certain proposed Anthem West PUD Managed Growth and Development Agreement
between Pulte and the City and County.

4.  Expansion of District Boundaries or Services. Except for the services and
facilities described in the First Modification to Original Service Plan (if any) to be provided
outside the District’s boundaries or services and facilities described in Subdivision Improvement
Agreements (and other development agreements and plans (collectively, the “SIAS”) between
the City and County and the Developer, prior to expanding its boundaries or services outside the
District boundaries, the District shall follow the notification procedure set forth in Section III of
the First Modification to Original Service Plan. The District shall not alter its boundaries by
inclusion of additional real property in the District boundaries without first providing written
notice to the City and County and to the City and County Manager and the City and County
Attorney that it has received a petition requesting that additional property be included in the
District boundaries, which petition shall be included in the written notice. After receipt of the
notice and petition, the governing body of the City and County shall within forty-five (45) days
receipt of such notice and petition, either: (a) adopt a resolution of approval authorizing the
inclusion; or (b) the City and County acting through the City and County Manager and the City
and County Attorney shall submit a written waiver of the City’s right to require such resolution;
or (c) the City and County acting through the City and County Manager and the City and County
Attorney shall file a written objection to the inclusion, each action shall be in the City's sole
discretion. Any resolution of approval so adopted or waiver shall be appended to the inclusion
petition.

5.  Ownership, Operation and Maintenance of Improvements. The property within
the boundaries of the District is zoned for planned unit development and the District is not
anticipated to operate or maintain any improvements. As provided in Section V of the District’s
First Modification to Original Service Plan, it is anticipated that, following acceptance by the
City and County and if agreed to by the City and County in the SIAS the City and County will
own, operate and maintain the potable and non-potable water system, the sanitary sewer
improvements, and the street improvements. If agreed to by the City and County in the SIAS
park and recreation improvements will be owned, operated and maintained by the City and County, or, with the consent of the City and County, the District or one or more homeowners or owners associations. Safety protection and transportation improvements will be owned, operated and maintained by the City and County, the Regional Transportation District, the Colorado Department of Transportation or other appropriate jurisdictions.

6. **Bonds.**

   (a) **Bond Issuance Plan.** In accordance with Section XI of the First Modification to Original Service Plan, prior to issuance of any bonds, including Subordinate Cash Flow Bonds and any refunding bonds, the District shall submit to the City and County a financial plan which demonstrates the structure of the proposed bond transaction and the District's plan to pay the proposed bonds (“Bond Issuance Plan”). At least fifteen (15) days prior to submitting the Bond Issuance Plan, the District shall submit to the City and County a Notice of Intent to Issue Bonds. The City and County Manager and City and County Attorney shall have forty-five (45) days from the date of receipt of the Bond Issuance Plan in which to object to the Bond Issuance Plan. If the City and County Manager and City and County Attorney fail to object in writing to the District's Bond Issuance Plan within forty-five (45) days of receipt of the Bond Issuance Plan, the City and County Manager and City and County Attorney will be deemed to have approved the Bond Issuance Plan and the District may proceed to issue the bonds in accordance with the Bond Issuance Plan. In the event the City and County objects in writing within the forty-five (45) day period, the District shall proceed with the bond issuance only with the written consent of the City and County Manager and City and County Attorney.

   (b) **Voter Authorization and Debt Authority.** At elections held on November 6, 2001, May 7, 2002, and November 2, 2004, the District obtained voter approval for the incurrence of general obligation debt in the total amount of $222,000,000. Notwithstanding the voter-approved authorization, in accordance with Section VIII of the First Modification to Original Service Plan, the District shall not be authorized to issue general obligation bonds or other obligations (other than refunding bonds authorized at the November 2, 2004 election) in excess of One Hundred Eleven Million Dollars ($111,000,000) (“Debt Authority”).

7. **Miscellaneous.**

   (a) **Notices.** All notices required or permitted to be given hereunder shall be in writing and shall be effective upon personal delivery or three (3) business days following deposit of the notices in the United States Mail, postage prepaid and addressed as follows, or to such other address designated by a party upon notice as herein provided:

   To District: Northwest Metropolitan District No. 3
   (to be known as Anthem West Metropolitan District)
   141 Union Blvd., Suite 150
   Lakewood, CO 80228
   Attn: AJ Beckman
   Phone: 303-987-0835
   Fax: 303-987-2032
With a copy to: McGeady Sisneros, P.C.
450 E.17th Avenue, Suite 450
Denver CO 80203
Attn: Mary Jo Dougherty
Phone: 303-592-4380
Fax: 303-592-4385

To City: Broomfield City and County Manager
One DesCombes Drive
Broomfield, Colorado 80020
Phone: 303-438-6300

With a copy to: Broomfield City and County Attorney
One DesCombes Drive
Broomfield, Colorado 80020
Phone: 303-438-6353

All notices, demands requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service, or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days’ written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

(b) Amendment. This Agreement cannot be amended or modified except by a writing executed by the Parties.

(c) Negation of Partnership. None of the Parties shall become or be deemed to be a partner, joint venturer or agent of any other Party by reason of the provisions of this Agreement. No Party shall be liable for obligations incurred by any other Party and no Party shall have the power to bind any other Party with regard to any obligations.

(d) Severability. The invalidity, illegality or unenforceability of any provision of this Agreement shall not render the other provisions invalid, illegal or unenforceable.

(e) Applicable Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Colorado.

(f) Access to Records. Each Party shall have the right to inspect the books and records of all other Parties relating to this Agreement at reasonable times upon reasonable notice.

(g) Waiver. No failure by any party to insist upon the strict performance of any agreement, term, covenant, or condition hereof or the exercise of any right or remedy consequent upon any default, and no acceptance of full or partial performance during the continuance of any such default, shall constitute a waiver of any such default of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition hereof to be performed
or complied with by any party, and no default thereof, shall be waived, altered, or modified except by a written instrument executed by the non-defaulting Party or Parties.

(h) Attorneys' Fees. In the event of any dispute between the Parties to this Agreement arising out of this Agreement, the prevailing Party shall recover its reasonable attorney's fees incurred in connection with such dispute, whether in court or by arbitrator.

(i) Additional Documents or Action. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

(j) Assignment; Delegation. Except as expressly set forth herein or as contemplated hereby, neither this Agreement, nor any of either Parties' rights, obligations, duties or authorities hereunder may be assigned or delegated in whole or in part by any Party without the prior written consent of the other Parties, which consent shall not be unreasonably withheld. Any attempted assignment or delegation in violation of the foregoing shall be deemed void.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]
SIGNATURE PAGE FOR INTERGOVERNMENTAL AGREEMENT

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

NORTHWEST METROPOLITAN DISTRICT NO. 3
(to be known as Anthem West Metropolitan District)

By:  

Todd Levitt, President

Attest:

Secretary

CITY AND COUNTY OF BROOMFIELD

By:  

Mayor

APPROVED AS TO FORM

By:  

Hahn, Smith, Walsh & Mancuso, P.C.
ORDINANCE NO. 1916

AN ORDINANCE AUTHORIZING AND APPROVING THE ANTHEM WEST AMENDMENT TO VESTING AGREEMENT FOR PREBLE CREEK PUD AND THE ANTHEM WEST PUD MANAGED GROWTH AND DEVELOPMENT AGREEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. The Anthem West Amendment to Vesting Agreement for Preble Creek PUD attached hereto and incorporated herein by this reference, by and between the City and County of Broomfield and Pulte Home Corporation, establishing a vested property right pursuant to § 24-68-104(2) C.R.S. is hereby approved.

Section 2. The Anthem West PUD Managed Growth and Development Agreement attached hereto and incorporated herein by this reference, by and between the City and County of Broomfield and Pulte Home Corporation concerning the development of the Anthem West property is hereby approved.

Section 3. The mayor or mayor pro tem is authorized to sign and the city and county clerk to attest, in form approved by the City & County Attorney: the Anthem West Amendment to Vesting Agreement for Preble Creek PUD by and between the City and County of Broomfield and Pulte Home Corporation, and the Anthem West PUD Managed Growth and Development Agreement by and between the City and County of Broomfield and Pulte Home Corporation.

Section 4. This ordinance shall be effective seven days after publication following final passage.

INTRODUCED AND APPROVED after first reading on March 10, 2009, and ordered published in full.

INTRODUCED A SECOND TIME and approved on _______, 2009, and further ordered published in full.

THE CITY AND COUNTY OF BROOMFIELD, COLORADO

________________________________________
Mayor

ATTEST:

________________________________________
City and County Clerk

APPROVED AS TO FORM:

________________________________________
City & County Attorney

First Publication:

Second Publication:
CITY AND COUNTY OF BROOMFIELD, COLORADO,
a Colorado municipal corporation and county,

and

PULTE HOME CORPORATION,
a Michigan corporation

Approval of this site specific development plan creates a vested property right pursuant to C.R.S. §24-68-103, for a period of greater than three years from the effective date of the ordinance approving this site specific development plan. This site specific development plan is subject to all conditions of approval imposed by the Broomfield City Council.
ANTHEM WEST

AMENDMENT
TO
VESTING AGREEMENT
FOR
PREBLE CREEK P.U.D.

THIS ANTHEM WEST AMENDMENT TO VESTING AGREEMENT FOR PREBLE CREEK PUD (this "Vesting Agreement") is made and entered into as of the _____ day of ________________, 2009, by and among the City and County of Broomfield, a Colorado municipal corporation and county, "City", and Pulte Home Corporation, a Michigan corporation ("Pulte" or "Developer").

RECITALS

Defined terms used in the following recitals have the meanings given them in Section 1 below.

WHEREAS, the Vested Property Rights Statute and the Vested Property Rights Regulations provide for the establishment of vested property rights in order to advance the purposes stated therein, and authorize the City to enter into development agreements with landowners providing for the vesting of property development rights for periods of greater than three (3) years; and

WHEREAS, pursuant to Ordinance No. 1505, adopted on second reading on October 24, 2000, the City approved a vesting agreement for certain property that included the Preble Creek P.U.D. Plan and Preliminary Plat, however, such vesting agreement was not fully executed nor did it become effective; and

WHEREAS, the City approved the Original Vesting Agreement which designated the "Preble Creek P.U.D. Plan and Preliminary Plat" and the "Preble Creek PUD Managed Growth and Development Agreement" dated April 10, 2001, as amended from time to time, as a "site-specific development plan," as defined in the Vested Property Rights Statute and the Vested Property Rights Regulations; and

WHEREAS, Pulte is the developer of that portion of the Preble Creek P.U.D. known as the Anthem West PUD; and

WHEREAS, the Original Vesting Agreement stated that it could be amended only by mutual consent in writing of the City and the owner of that portion of the Original Property affected by such amendment following the public notice and public hearing procedures required for approval of the Original Vesting Agreement; and
WHEREAS, Pulte desires to amend and restate the Original Vesting Agreement with respect to that portion of the Anthem West PUD which is owned by Pulte as of the date first set forth above; and

WHEREAS, the Anthem West PUD is under development and the parties anticipate that development of the Anthem West PUD will continue to occur in phases over a period of ten (10) years or more under current market conditions. The development has and will continue to require substantial, up-front investments in public and private infrastructure improvements to serve its needs and those of the City, including without limitation roads, storm drainage facilities, water lines, sanitary sewer lines, parks and trails. This Vesting Agreement gives assurance that the development of the Property pursuant to the Anthem West PUD, as approved by the City, will be allowed to proceed to ultimate completion, as provided in this Vesting Agreement, sufficient to support the Developer's infrastructure investments; and

WHEREAS, the parties desire to amend and update the Original Vesting Agreement, acknowledging that such amendment is necessary and proper in light of the various amendments made to both the Development Agreement and the Preble Creek PUD since the approval of the Original Vesting Agreement, and to reflect development progress that has occurred as of the date of this Vesting Agreement; and

WHEREAS, development of the Property in accordance with the terms and conditions of the Anthem West PUD and the Development Agreement will provide for orderly and well planned growth, promote economic development and stability within the City, ensure reasonable certainty, stability and fairness in the land use planning process, secure the reasonable investment-backed expectations of Developer, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes of the Vested Property Rights Statute and the Vested Property Rights Regulations. In exchange for these benefits and the other benefits to the City contemplated by the Anthem West PUD and the Development Agreement, together with the public benefits served by the orderly and well planned development of the Property, Developer desires to receive the assurance that development of the Property may proceed pursuant to the terms and conditions of the Anthem West PUD.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and Developer amend and restate the Original Vesting Agreement as it applies to the Property as follows:

1 DEFINITIONS AND GENERAL PROVISIONS

1.1 Definitions. Initially capitalized terms appearing but not otherwise defined in this Vesting Agreement shall have the meaning attributed to such terms in the Development Agreement, unless a different meaning clearly appears from the context:

1.1.1 "Anthem West PUD" means the Anthem-West P.U.D. Plan and Preliminary Plat, as amended by the Anthem-West P.U.D. Plan and Preliminary Plat-First Amendment.
1.1.2 "City" means the City and County of Broomfield, Colorado, a Colorado municipal corporation and county.

1.1.3 "Development Agreement" means the "Preble Creek PUD Managed Growth and Development Agreement" dated April 10, 2001 and recorded on October 1, 2001 under Reception No. C0864400 in the real property records of the City and County of Broomfield, as amended and restated in its entirety by the "Anthem PUD Managed Growth and Development Agreement" dated March 31, 2006 and recorded on June 2, 2006 under Reception No. 2006006948, as amended by the "Anthem West PUD Managed Growth and Development Agreement" dated ______, 2009 (the "Anthem West Agreement").

1.1.4 "Developer" means Pulte, as identified above, its successors and assigns.

1.1.5 "Effective Date" means May 23, 2001, which is the effective date of City Council Ordinance No. 1547 approving execution of the Original Vesting Agreement.

1.1.6 "Original Property" means that real property which was the subject of the Original Vesting Agreement and which was described on and subject to the Preble Creek P.U.D. Plan and Preliminary Plat approved by the City on April 10, 2001.

1.1.7 "Original Vesting Agreement" means the Vesting Agreement for Preble Creek P.U.D. approved by Ordinance No. 1547 of the City.

1.1.8 "Preble Creek PUD" means the Preble Creek P.U.D. Plan and Preliminary Plat, as amended by (i) the Preble Creek P.U.D. Plan and Preliminary Plat-First Amendment, (ii) the Preble Creek P.U.D. Plan and Preliminary Plat-Second Amendment, (iii) the Anthem West P.U.D. Plan and Preliminary Plat, and (iv) the Anthem-West P.U.D. Plan and Preliminary Plat-First Amendment.

1.1.9 "Property" means the real property within the boundaries of the Anthem-West P.U.D. Plan and Preliminary Plat-First Amendment which is owned by Pulte as of the date first set forth above.

1.1.10 "Term" means the period of time described in Section 2.3 hereof.

1.1.11 "Vested Property Rights Regulations" means Chapter 16-40 of the Broomfield Municipal Code.

1.1.12 "Vested Property Rights Statute" means Section 24-68-101, et seq. of the Colorado Revised Statutes in effect as of the Effective Date.

1.1.13 "Vesting Agreement" means this Agreement.
1.2 **Covenant/Binding Effect.** The provisions of this Vesting Agreement are covenants or servitudes which touch, attach to and run with the land comprising the Property, and the burdens and benefits of this Vesting Agreement are binding upon and, except as otherwise provided in this Vesting Agreement, inure to the benefit of the Property and the successors in interest and assigns of the parties to this Vesting Agreement.

2 **VESTED PROPERTY RIGHTS**

2.1 **Vested Property Rights.** This Vesting Agreement, the Development Agreement, and the Anthem West PUD, individually and collectively, constitute an approved "site-specific development plan," as defined in the Vested Property Rights Statute and the Vested Property Rights Regulations and establish vested property rights pursuant to the Vested Property Rights Statute and the Vested Property Rights Regulations to develop the Project in the manner contemplated by such documents. Accordingly, neither the Anthem West PUD or the Development Agreement is subject to any expiration period or other durational limitation that might otherwise apply in the absence of this Vesting Agreement. The City shall, if an applicant so requests, process each final plat, site development plan and amendment thereto that is subject to the Development Agreement and the Anthem West PUD as a "site specific development plan," as defined in the Vested Property Rights Statute and the Vested Property Rights Regulations. Vested property rights created in connection with such subsequent approvals are supplemental and in addition to the property rights vested through this Vesting Agreement, and are vested under the Vested Property Rights Statute and the Vested Property Rights Regulations for the longer of (i) three (3) years; or (ii) the Term. The vested property rights created by this Vesting Agreement apply to the Development Agreement and the Anthem West PUD as defined herein, and do not apply to any amendment to those documents that is not specifically included within the definition of either the Development Agreement or the Anthem West PUD.

2.2 **Incorporation of Development Agreement.** Each and every substantive term and condition of the Development Agreement is incorporated within and made a part of this Vesting Agreement as if such terms and conditions were fully set forth herein, it being the intent of the parties to this Vesting Agreement that so long as the Development Agreement has not expired in accordance with its own terms, all of Developer’s rights under the Development Agreement be incorporated within the property rights vested pursuant to this Vesting Agreement. Except as the Vested Property Rights Statute expressly provides otherwise, no initiated or referred zoning, subdivision, land use or other legal or administrative action which would directly or indirectly have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Developer’s rights set forth in the Development Agreement shall apply to or be effective against the Developer's interest in the Property or the Anthem West PUD.

2.3 **Term.** The Term of the statutory vested property rights as established by the Original Vesting Agreement and by this Vesting Agreement commenced on the Effective Date. The duration of the Term is set forth in sections 2.3.1 through 2.3.4 below. During the Term, the Developer is entitled to undertake and complete the development and use of the Property under the terms and conditions of, and consistent with, the Anthem West PUD and the Development Agreement, and in accordance
with all applicable City development regulations which are not inconsistent with this Vesting Agreement, including, but not limited to, the development review and approval of one or more site development plans and final subdivision plats for the Property or phases thereof. The vested property rights under this Vesting Agreement include without limitation: the right to develop, plan and engage in land uses within the Property in accordance with this Vesting Agreement, the Development Agreement and the Anthem West PUD; the right to develop the Property in the order, at the rate and at the time as market conditions dictate, subject to the terms of this Vesting Agreement; the right to develop and complete development of the Property in accordance with City ordinances; the right to have the City accept and process applications for subsequently required development approvals, including without limitation, subdivision plats and site development plans, and each amendment thereto.

2.3.1 The initial duration of the Term as established by the Original Vesting Agreement was five (5) years after the Effective Date. In satisfaction of the terms and provisions of the Original Vesting Agreement, Pulte submitted complete site development plans under the City's zoning and subdivision regulations for not less than 285 acres of land contained within the Property during the first five (5) years after the Effective Date. By satisfying those terms, the Term of the vested property rights for the Original Property was extended for an additional period of five (5) years from the end of the initial five (5) year period (the "First Additional Period").

2.3.2 In satisfaction of the terms and provisions of the Original Vesting Agreement, Pulte has extended infrastructure to provide public water and sewer service to portions of the Original Property for which one or more site development plans have been approved by the City. By extending the infrastructure, the Term of the vested property rights for the Original Property was extended for an additional period of five (5) years from the end of the First Additional Period (the "Second Additional Period"). As of the date of this Vesting Agreement first set forth above, the Term of this Vesting Agreement as it applies to the Property continues through the Second Additional Period until fifteen (15) years after the Effective Date which is May 23, 2016.

2.3.3 Thereafter, the Term of the vested property rights will be extended for additional successive periods of five (5) years each if, during the preceding five (5) year extension period, there is commenced the construction of new residential or commercial improvements within the Property; provided, however, that the duration of vesting under this Vesting Agreement for the Property does not exceed thirty (30) years after the Effective Date.

2.3.4 In the event that there is no new construction activity commenced within the Property for at least six months (as evidenced by the placement of foundation materials pursuant to the issuance of a new residential or commercial building permit) during any period of time that there is an economic recession, then the vesting period in effect at such time shall be tolled for a length of time equal to the period of time during which no new construction activity is undertaken, provided that the vesting period shall not be tolled longer than two and one-half years. An economic recession means a period of at least two consecutive quarters (six months) of declining real gross national product (as published by the U.S. Department of Commerce) or declining employment within the State of Colorado (as published by the Colorado Department of Labor and Employment).
2.4 Compliance with General Regulations. Subject to the terms, conditions and limitations of the Vested Property Rights Statute and except as otherwise provided in this Vesting Agreement, the establishment of statutory vested property rights pursuant to this Vesting Agreement shall not preclude the application on a uniform and non-discriminatory basis of City regulations of general applicability (including but not limited to building, fire, plumbing, electrical and mechanical codes, the Municipal Code and other City rules and regulations) or the application of state or federal regulations, as all of such regulations exist on the Effective Date or may be enacted or amended after the Effective Date. Developer does not waive any right to oppose the enactment or amendment of any such regulations.

2.5 Expiration of Term. After expiration of the Term, the Property shall continue to be subject to the charter, ordinances, rules and regulations of the City for so long as it is located within the municipal boundaries of City, and the statutory vested property rights established by this Vesting Agreement shall be deemed terminated and of no further force or effect; provided, however, that such termination shall not affect any common-law vested rights obtained prior to such termination, or any right, whether characterized as vested or otherwise, arising from the Development Agreement, or the Anthem West PUD, or from City permits, approvals or other entitlements for the Property or which were granted or approved prior to, subsequent to, concurrently or in conjunction with the approval of this Vesting Agreement.

3 REMEDIES

3.1 Remedies. The City acknowledges that since this Vesting Agreement extends the period of vesting for more than three (3) years, as provided in the Vested Property Rights Statute, in the event of a breach or default by the City of this Vesting Agreement, in addition to any remedy otherwise available at law or in equity under the Development Agreement or otherwise, Developer is entitled to recover from the City any damages and/or compensation that would have been specifically available pursuant to C.R.S. §24-68-105(1)(c) as in effect on the Effective Date. Notwithstanding any contrary provision of this Vesting Agreement or the Development Agreement, Developer's remedies for a default by the City resulting from an initiated measure shall be limited to the equitable remedy of specific performance.

3.2 Venue. Venue for any action to enforce or interpret the terms of this Vesting Agreement shall be in the District Court of Broomfield County.

4 MISCELLANEOUS

4.1 Amendment of Vesting Agreement. Except as otherwise set forth in this Vesting Agreement, this Vesting Agreement may be amended or terminated only by mutual consent in writing of the City and the Owner of that portion of the Property affected by such amendment following the public notice and public hearing procedures required for approval of this Vesting Agreement. For the purposes of any amendment to this Vesting Agreement, "Owner" means only the owner of that portion of the Property affected by the amendment and only with respect to matters affecting such Owner.
4.2 **Titles of Sections.** Any titles of the several parts and sections of this Vesting Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

4.3 **Third-Party Beneficiaries.** No third-party beneficiary rights are created in favor of any person not a party to this Vesting Agreement. It is expressly understood and agreed that enforcement of the terms and conditions of this Vesting Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, their successors and assigns, including successor owners of the Property or portions thereof, and nothing contained in this Vesting Agreement shall give or allow any claim or right of action by any other or third person under this Vesting Agreement.

4.4 **Applicable Law.** The laws of the State of Colorado shall govern the interpretation and enforcement of this Vesting Agreement.

4.5 **Assignment.** Developer, and Owners of the Property ("Owners"), shall have the right to assign or transfer all or any portion of their interests, rights or obligations under this Vesting Agreement to third parties acquiring an interest or estate in the Property, including but not limited to purchasers or long term ground lessees of individual lots, parcels or of any improvements now or hereafter located within the Property, provided that to the extent Owners assign any of Owners' obligations under this Vesting Agreement, the assignee of such obligations shall expressly assume such obligations. The express assumption of any of Owners' obligations under this Vesting Agreement by its assignee or transferee shall, upon written notice to the City, thereby relieve Owners of any further obligation under this Vesting Agreement with respect to the matter so assumed. To the extent the duties and obligations of the Owners are not assumed by the transferee, the Owners shall remain obligated hereunder.

4.6 **Severability.** If any term, provision, covenant or condition of this Vesting Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Vesting Agreement shall, unless amended or modified by mutual consent of the parties, continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the party against whom they are being enforced under the facts and circumstances then pertaining. If this Vesting Agreement is declared to be illegal, invalid or unenforceable, in whole or in part, the Developer will retain all of its rights, at law or in equity, to seek recovery of all monies expended by the Developer in connection with the construction of the improvements, under theories of quantum meruit, restitution, quasi-contract or under any similar or other theory of recovery.

4.7 **Entire Agreement.** This Vesting Agreement, together with the Development Agreement, the consent of the Developer attached to the Anthem East PUD Managed Growth and Development Agreement and the Anthem West PUD constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof and replaces and supersedes in their entirety the Original Vesting Agreement as it applies to the Property and any other prior agreements, understandings, warranties or representations between the parties, including any oral representation made in connection with the negotiation, processing and public hearings leading to approval of the Preble Creek PUD, the Development Agreement and/or this Vesting Agreement.
4.8 **Counterparts.** This Vesting Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Vesting Agreement to be duly executed as of the day first above written.

CITY:

CITY AND COUNTY OF BROOMFIELD,
A Colorado municipal corporation and county

By: __________________________
Mayor

ATTEST:

APPROVED AS TO FORM:

By: __________________________
Secretary

By: __________________________
City and County Attorney

STATE OF COLORADO )
) ss.
) )
______ County of ________

The foregoing Vesting Agreement was acknowledged before me this ____ day of ____________, 2009, by ___________________________ as Mayor, ___________________________ as Secretary and ___________________________ as City and County Attorney of CITY AND COUNTY OF BROOMFIELD, a Colorado municipal corporation and county.

My commission expires: ___________________________

__________________________
Notary Public
PULTE:

PULTE HOME CORPORATION, a Michigan corporation

By: 
Title: Attorney-in-Fact

STATE OF COLORADO

County of Douglas

The foregoing Vesting Agreement was acknowledged before me this 26th day of
March, 2009, by Matt Mandino as Attorney-in-Fact of
PULTE HOME CORPORATION, a Michigan corporation.

My commission expires: 11/25/2011

MELINDA FITZGERALD
Notary Public

My Commission Expires 01/22/2011
ANTHEM WEST PUD MANAGED GROWTH AND DEVELOPMENT AGREEMENT

THIS ANTHEM WEST PUD MANAGED GROWTH AND DEVELOPMENT AGREEMENT ("Agreement" or "Anthem West PUD Agreement"), is made and entered into the _____ day of ________________, 2009, by and among the parties listed below.

1. PARTIES

The parties to this Agreement are the City and County of Broomfield, a Colorado municipal corporation and county, hereinafter referred to as the "City", and Pulte Home Corporation, a Michigan corporation, and their designated assignees, hereinafter referred to collectively as "Developer".

2. RECITALS

A. Developer is the developer of the real property known as the "Anthem West P.U.D. Plan and Preliminary Plat" as more particularly described in Exhibit A, hereinafter referred to as the "Property". The Property was originally subject to and a part of that certain Planned Unit Development Plan ("PUD") for the Property, titled "Preble Creek P.U.D. Plan and Preliminary Plat," (the "Initial PUD"). The Initial PUD was amended and re-titled as the "Preble Creek P.U.D. Plan and Preliminary Plat — First Amendment" (the "Preble Creek PUD"). In connection with the City's approval of the Initial PUD, the City, Developer and JPB Holdings, LLC, a Colorado limited liability company, entered into the PREBLE CREEK MANAGED GROWTH AND DEVELOPMENT AGREEMENT dated April 10, 2001 ("Original PUD Agreement"), and recorded on October 1, 2001 under Reception No. C0864400 in the real property records of the City and County of Broomfield, State of Colorado. Due to the scope of the Preble Creek PUD, the ongoing installation and construction of basic infrastructure to serve the project, and other changed conditions, the parties further amended a portion of the Preble Creek PUD. As a result of the amendment, the governing P.U.D. Plan and Preliminary Plat for the Property now consists of the "Preble Creek P.U.D. Plan and Preliminary Plat — First Amendment," as amended by the "Anthem West P.U.D. Plan and Preliminary Plat" and as further amended by the "Anthem West P.U.D. Plan and Preliminary Plat - First Amendment" ("Anthem West PUD"). All references herein to the "Anthem PUDs" shall be deemed to refer collectively to the Preble Creek PUD as amended by the Anthem West PUD. In connection with the Anthem West PUD, the City and Developer amended and restated the Original PUD Agreement in its entirety by entering into the Anthem PUD Managed Growth And Development Agreement dated March 31, 2006 (the "Anthem PUD Agreement") and recorded June 2, 2006 under Reception No. 2006006948 in the real property records of the City and County of Broomfield. In order to facilitate the orderly development of residential and commercial portions of the Anthem PUDs, the parties again desire to amend and restate the Anthem PUD Agreement to create two separate agreements one which will govern the development of the residential Anthem West PUD, and the other which will govern the commercial and mixed-use portion of the Preble Creek PUD generally located east of the Community Ditch and commonly known as Anthem East. In consideration of the premises, covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby amend and restate the Anthem PUD Agreement as to the Anthem West PUD upon the following terms and conditions; the parties acknowledging and agreeing, however, that the Anthem PUD Agreement shall not be deemed to have been satisfied, extinguished, discharged or released hereby, but is amended and restated in its entirety by this Agreement with respect to the Anthem West PUD, and by the corresponding Anthem East Managed Growth and Development Agreement

Anthem West Final
("Anthem East PUD Agreement") of even date herewith which amends and restates the Anthem PUD Agreement in its entirety with respect to those portions of the Preble Creek PUD that are not included within the property that is subject to the Anthem West PUD (referred to hereinafter as "Anthem East"). As a result of the amendment and restatement of the Anthem PUD Agreement by this Agreement and the corresponding Anthem East PUD Agreement, the duties and obligations pertaining to the development Anthem West are set forth in this Agreement, and the duties and obligations pertaining to the development of Anthem East are set forth in the Anthem East PUD Agreement. This Agreement and the Anthem West PUD remain subject to the terms and provisions of the “Vesting Agreement for Preble Creek PUD” as approved by Ordinance No. 1547, as amended by the “Anthem West – Amendment to Vesting Agreement for Preble Creek PUD” ("Amended Vesting Agreement") of even date herewith, as may be further amended from time to time.

B. The Anthem PUDs include planning for a quality residential community and commercial urbanized community which the City has envisioned in its Comprehensive Master Plan and approved I-25 Sub-Area plan, and incorporates residential components and proposed commercial development necessary to support each other. Development of the Anthem PUDs will occur in phases over a period of years. The commercial development is expected to generate substantial new sales, use and property tax revenues to the City, and thus provide extraordinary public benefits for the City. The Anthem PUDs, consisting of the residential Anthem West and the commercial Anthem East are being planned in an integrated manner to meet the following goals and objectives:

1. Provide financing for all infrastructure required to support the project, as well as upsizing of utilities for adjacent properties, in accordance with this Agreement and with appropriate reimbursement from the City based on City revenues generated by the development of the project.
2. Establish a quality, urbanized community with varying densities of residential and commercial development as envisioned in the City's Comprehensive Master Plan and approved I-25 Sub-Area Plan, and create a high quality mixed-use development at Anthem East incorporating key commercial and employment design elements from successful national projects including Reston, Virginia, and Interlocken Advanced Technology Environment.
3. Provide a variety of residential product types and densities necessary to support the proposed commercial development.
4. Provide a community that maintains the City's quality of life and sense of community identity.
5. Provide opportunities for commercial development that will generate new sales tax revenues for the City.
6. Establish a framework for City growth, conservation and revitalization based on a generous and interconnected open lands system.
7. Create diverse, livable neighborhoods while reinforcing the City's unique natural setting and open space system.
8. Create an interconnected network of greenways that link neighborhoods, schools, community facilities, shopping and employment areas.
9. Establish within these greenways multi-modal transportation systems which include pedestrian and bicycle paths combined with park facilities and limited commercial facilities.
10. Set guidelines for the reasonable protection of existing wildlife and encourage new development with wildlife preservation concepts.
11. Create a Town Center in Anthem East that will serve as an activity center for the Anthem community.
12. Provide a variety of housing opportunities, from high-end estate lots in Anthem West to high density multi-family rental units in Anthem East.
Maintain undeveloped properties during development of individual phases in a natural, well-kept condition, and attempt to maintain the existing agricultural status as long as it is economically and practically feasible.

Provide school sites adequate for the education needs of the Anthem community.

C. The duties, rights and entitlements conveyed by this document are specifically the duties, rights and entitlements of the Developer. This Agreement shall apply to the Property, and to any other property located south of Highway 7, north of the Northwest Parkway, and west of the Community Ditch that is acquired in fee by the Developer, or its assignees, and which is located within the North Broomfield/I-25 Sub-Area Plan November 99 ("I-25 Sub-Area Plan") approved by the City Council of the City of Broomfield under Resolution No. 208-99 on December 7, 1999, as amended by Resolution No. 2008-28 adopted February 12, 2008, and the term Property as used herein shall mean the Property and any other such acquired property.

D. The parties hereto acknowledge that certain annexation agreements that annexed the Property into the City were entered into by the City and prior owners of certain parcels within the Preble Creek PUD, and that, as of the date of approval of the Original PUD Agreement and the Initial PUD, such annexation agreements became null and void and have no force or effect.

E. The Anthem PUDs modified the then-existing PUD's of certain underlying properties into a complete, master planned community. With the approval and adoption of the Original PUD Agreement and the Preble Creek PUD, the parties acknowledge that the underlying PUD's for these properties became null and void.

3. AGREEMENT

In consideration of the mutual covenants and promises of the parties contained herein and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

4. MANAGED GROWTH AREA

A. Due to the Managed Growth provisions contained within the Anthem West PUD and this Agreement, development within the Managed Growth Area as established by the boundaries of the Anthem West PUD, as it may be modified in the future by the inclusion of additional properties, shall be exempt from any limitations on the pace of growth or rate of building permit issuance other than the limits imposed by this Agreement.

B. City and Developer hereby adopt the Development Schedule attached hereto as Exhibit B. The Developer hereby agrees to complete the Developer's obligations as set forth in Exhibit B. The Development Schedule shows the status of the Development Obligations as obligations that have been completed, obligations that are partially complete or obligations that are not complete as of the date of this Agreement.

C. Commercial Floor Area. Developer shall be entitled to develop the maximum floor area ratio for mixed-used commercial parcels as permitted under the Anthem West PUD. The City will timely process and duly consider any application to amend the Anthem West PUD to permit mixed-use commercial development, excluding residential, on Parcel W-53.
5. SPECIAL DISTRICTS

The Parties agree and acknowledge that the financing and construction of the public improvements contemplated by the provisions of the Agreement has required the formation of one or more special districts permitted pursuant to Colorado statutes, particularly Part 2 of Article 1 of Title 32, C.R.S., as amended, (the "Act") in order to implement and facilitate such financing and construction. Pursuant to the terms of the Act, the City Council of the City has approved the Service Plans (the "Service Plans") for Northwest Metropolitan District No.1 (Service District) ("District No. 1"), Northwest Metropolitan District No. 2 (Commercial District) ("District No. 2"), Northwest Metropolitan District No. 3 (Single Family District) ("District No. 3") and Northwest Metropolitan District No. 4 (Multi-Family District) ("District No. 4") (collectively the "Special Districts"). Due to changes in development plans, it is contemplated that the Special Districts will operate independently pursuant to modifications of the Service Plans and that District No. 1 will be dissolved. District No. 3 will be known as Anthem West Metropolitan District. Subject to the provisions of the Act, the Parties agree to continuing cooperation in connection with the Special Districts or other improvement districts, including future modifications of Service Plans and the dissolution of Special Districts to accommodate development circumstances, to fund, construct and/or provide public facilities and services set forth in this Agreement, the Service Plans and modifications thereto or otherwise required in connection with the development of the Anthem West PUD, including but not limited to streets, water, sewer and drainage, within or otherwise serving all or a portion of the Property.

The City agrees that any obligation set forth in this Agreement for the financing and construction of public improvements which are required to serve the Anthem West PUD, which will be owned by the City or a Special District, and which will be available for general public use and serve essential governmental functions, can be undertaken, performed and completed by a Special District. If a Special District constructs at its cost any such public improvements required by the provisions of this Agreement, then the Special District shall be entitled to any reimbursement set forth in this Agreement from the City for such construction, and such reimbursement shall be used by the Special District only for the reduction of debt incurred by the Special District for the cost of construction of improvements identified herein, provided however that the City has no obligation to reimburse a special district, the Developer or any other developer for any public improvement unless there is an intergovernmental agreement, memorandum of understanding or reimbursement agreement implementing this Agreement (the "Reimbursement Agreement"). District No. 1 has entered into a Memorandum of Understanding ("Existing MOU") with the City that will be terminated upon the execution of a Reimbursement Agreement with District No. 3 and/or the Developer which will have terms and conditions substantially the same as the Existing MOU. The Developer and City agree to promptly enter into the Reimbursement Agreement after the execution of this Agreement. The parties contemplate that any Special District which is organized to serve residential areas exclusively shall, to the extent permitted and in accordance with applicable laws, be dissolved upon the retirement of all debt which the district has incurred to construct and provide necessary public improvements to serve such residential areas as provided in the Service Plans and intergovernmental agreements between the City and the Special Districts.

6. GENERAL PUBLIC IMPROVEMENT OBLIGATIONS

A. The Developer shall be responsible for constructing, or causing to be constructed, all improvements located within the Property as set forth in the Anthem West PUD or as otherwise specifically required by this Agreement, except for those improvements to be completed under the requirements of the Anthem East PUD Agreement. The Developer's construction responsibility shall be subject to the reimbursement and other provisions of this Agreement. The improvements to be constructed include internal on-site drainage, water and sanitary sewer improvements, and arterial and non-arterial roads within the Anthem West PUD as are necessary to serve the Anthem West
PUD in accordance with the provisions of this Agreement and the City’s Standards and Specifications, as modified by the Anthem West PUD, and with City approved design documents. In addition, Developer agrees to dedicate, or cause to be dedicated, all necessary unobstructed rights-of-way for streets and utility easements within the Property needed for streets and water and sewer lines to serve the Property or for transmission through the Property consistent with the provisions of the Anthem West PUD, and the City shall not be responsible for the cost of acquiring or making available such rights-of-way and easements. Consistent with applicable law, the City shall be responsible for the vacation of existing streets or easements if required in connection with the development of the Anthem West PUD. The City shall use its best efforts to acquire, and shall make available all necessary right-of-way and easements on property owned by the City, for the construction or relocation of improvements crossing properties not within the Anthem PUDs including, but not limited to, streets, water and sewer facilities, and Developer shall not be responsible for the costs of acquiring or making available such rights-of-way and easements. In the event of condemnation, City and Developer shall cooperate as necessary.

B. Developer has funded, or a special district has funded, the cost of extending water and sewer lines from the City’s water and sewer system to the boundary of the Property. The extension costs are subject to reimbursement by the City in accordance with the terms of this Agreement that establish the means of cost recovery or reimbursement of such costs. Developer shall have no obligation after the date of this Agreement to fund, directly or indirectly, the design or construction of any additional off-site water and sewer lines. The City agrees that it shall assure capacity in any off-site water line extension and any off-site sewer line extension constructed by Developer to extend water and sewer lines from the City’s water and sewer system to the Anthem West PUD in a line capacity sufficient to enable water service and sanitary sewer service to be provided to the Anthem West PUD. The assured capacity shall be determined based upon engineering studies prepared at the Developer’s cost to reflect Developer’s intended development as defined in the Anthem West PUD. For on-site water and sewer lines to be constructed to serve Anthem West, the City may request Developer to design and construct such on-site water and sewer lines to provide capacity to adjacent properties outside the boundaries of the Anthem West PUD, but the Developer will have no obligation to “upsize” or otherwise design or construct such on-site water and sewer lines to provide the additional capacity, unless the parties negotiate, prior to the commencement of construction, a separate mutually acceptable agreement that establishes the means and timing of cost recovery or reimbursement of such costs, the source of funds for cost recovery or reimbursement, and whether the City will require there to be reimbursement by other benefited landowners. The availability of water service and sewer service for the Property or any particular phase of development shall be determined in accordance with current duly adopted City-wide policies of general application.

C. In connection with the development of Anthem West, Pulte Home Corporation has constructed or caused a special district to construct certain improvements in Anthem East for which Pulte or the constructing special district is entitled to reimbursement and cost recovery therefor by the City in accordance with the terms of this Agreement. For such improvements that have been constructed and completed by Pulte Home Corporation or such constructing special district in Anthem East prior to the date of this Agreement, including but not limited to (i) the completed Sheridan Boulevard-Phase 1 as identified on the Schedule for Improvements of Arterial Streets set forth in Section 9.D of this Agreement, and (ii) the water main in W. 160th Avenue from Sheridan Boulevard to Huron Street, such improvements will be considered improvements constructed pursuant to this Anthem West Agreement, and Pulte Home Corporation as the Developer of the Anthem West PUD, or the constructing special district, is the constructing party and is entitled to reimbursement for such improvements in accordance with the terms of this Agreement.
7. PUBLIC LAND PROVISIONS

A. General. Public land dedications and any improvements thereon shall be in accordance with Exhibit B and the Anthem West PUD, Subdivision Plats and Site Development Plans therefore approved by the City. The public dedication acreage requirements for the Anthem West PUD shall be deemed met as reflected in the Anthem West PUD. The timing of improvements to and dedication of public lands shall be made with the subsequent site development plans in a manner that ensures that the aggregate amount of public land dedications meets the requirements based on the cumulative number of residential units and their projected population. The improvement and dedication schedule for public lands as set forth in Exhibit B shall be satisfied as a part of the public land dedication requirements for the Anthem West PUD. Notwithstanding the provisions of this subsection, nothing herein shall preclude the requirement that the Developer provides easements, drainageways or other similar areas, as a part of the subdivision and site plan approval process as necessary for the orderly development of required public improvements for the property.

B. Developer Responsibilities. The Developer shall improve and shall pay all costs for the improvements of the areas identified immediately herein below, within the Anthem West PUD, and as described within Exhibit B, and shall make such improvements in accordance with the City’s Standards and Specifications, approved Site Development Plans, and as applicable the Design Standards for the Anthem West PUD.

(1) City/Countywide Park Sites. The Developer shall dedicate and improve and pay all costs to improve the park sites indicated within the Anthem West PUD. Said improvements shall consist of those items defined in the Anthem West PUD and in Exhibit B, excluding those improvements to be built by others as specified in Exhibit C. Said improvements shall be improved and dedicated in accordance with the Development Schedule within Exhibit B. If not specifically called out in Exhibit B, park sites shall be improved and dedicated consistent with the Anthem West PUD and in a phased approach consistent with the adjacent residential neighborhoods/tracts and in accordance with the provisions of Section 7.A above.

(2) Open Land/Trail System. The Developer shall improve the Open Land/Trail System indicated within the Anthem West PUD consisting of those items defined in Exhibit B and the Anthem West PUD, except for any item specifically excluded by this Agreement. All Open Land areas shown on the Anthem West PUD shall be improved in accordance with the Development Schedule within Exhibit B. In addition to the improvements defined in Exhibit B, Developer shall be responsible for fifty percent (50%) of the cost of constructing that portion of the 10-foot wide concrete Northwest Parkway Regional Trail within the boundaries of the Anthem West PUD (with the other fifty percent (50%) being the responsibility of the Northwest Parkway Authority). The timing and exact alignment of the trail shall be coordinated with the City and the Northwest Parkway Authority. If the trail has not been completed by the Northwest Parkway Authority on or before December 31, 2012, the Developer shall pay to the City the Developer’s 50% share of the costs to construct the trail in an agreed amount equal to $100,000.00 which the City shall use for trail system improvements within the Anthem West PUD, and upon payment of such amount, the Developer shall have no further obligations for the construction of the trail.

(3) School Site. The Developer has dedicated to the City and will improve and pay all costs to improve, subject to the reimbursement and other provisions of this Agreement, the School Site indicated within the Anthem West PUD. Said improvements shall consist of those items defined in Exhibit B. Said improvements shall be improved and dedicated in accordance with the Development Schedule within Exhibit B.
(4) **Public Land Dedication.** The total public land dedication acreage requirements for the Anthem West PUD has been met through the open space commitments as specified in the Anthem West PUD. Based on the proposed population, the amount of dedicated developed park land of Anthem West PUD exceeds the requirements for the Anthem West PUD. For purposes of this subsection the term “dedicated developed park land” includes neighborhood parks that are owned and maintained by a private entity but are available in their entirety for public use.

C. **Open Lands Dedication Guidelines.** The City and Developer agree to negotiate in good faith an agreement establishing guidelines for the dedication, ownership and maintenance of open lands within Anthem West in order to promote better long range development planning, better fiscal planning of future maintenance costs and to guide the planning and evaluation and review of site development plans.

8. **SCHOOL IMPACTS**

The Property is within the boundaries of the Adams 12 Five Star School District (“School District”). The Anthem West PUD was submitted to the School District. The School District advised that it desired a school site as set forth in the Anthem West PUD. In order to address the demands on the School District created by the Anthem West PUD, Developer has dedicated to the City a School Site with utilities to the site boundary and roadway access. Subject to the terms and conditions of any intergovernmental agreement between the City and the School District, the City shall dedicate the School Site to School District at such time as School District is prepared to proceed with the construction of site and building improvements.

9. **ROADWAYS**

A. **General.** The Developer shall construct, or cause to be constructed and pay all costs of construction, subject to the reimbursement and other provisions of this section, arterial streets, collector streets and local streets located within the Anthem West PUD and any other arterial streets that are identified in the Improvement Schedule for Arterial Streets set forth in Section 9.D of this Agreement (other than arterial streets marked “N/A”) in accordance with design criteria contained within the Anthem West PUD and the provisions set forth hereinbelow. The rights-of-way for and the widths of streets within the Anthem West PUD shall be as set forth in the Anthem West PUD and in specific Site Development Plans for specific areas within the Anthem West PUD as approved by the City and as determined in accordance with traffic engineering studies for the Anthem West PUD. Except as modified by the Anthem West PUD or this Agreement, such streets shall be constructed in accordance with the City’s Standards and Specifications in effect as of the date of this Anthem West PUD Agreement, said provisions including, but not necessarily limited to, requirements for road base, pavement, and drainage improvements, and associated utilities. At the completion of the warranty period for local streets, and so long as and to the extent that the City engineer consents in his/her reasonable professional judgment, grinding and replacement of the existing final bituminous (asphalt) surface overlay is not required and instead a final seal coat will be permitted, unless grinding and replacement is necessary to correct a failure of the existing final overlay. The construction of such streets shall be phased in accordance with the Improvement Schedule for Arterial Streets set forth below and engineering studies addressing traffic and trip generation and access management prepared for the orderly development of the Anthem West PUD and each phase of development, provided, however, that Developer may elect to advance the timing of the Improvement Schedule for future road construction phases subject to the City’s administrative approval. Temporary roadways will be allowed as necessary for the orderly development of the property in accordance with the approved phasing of development, subject to public safety and access requirements. City and Developer agree to cooperate to establish the final location of arterial streets, including any necessary street vacations, which locations may vary from
the alignments contained within the I-25 Sub-Area Plan. Right-of-way for arterial streets within the
Anthem West PUD shall be dedicated by plat, or prior to plat if the arterial street is constructed prior
to the time of final plat approval for that particular portion of arterial street being constructed.

(1) Baseline Road/CO Hwy 7. The Developer has completed the construction of improvements to
Baseline Road/CO Hwy 7 west of the Community Ditch and the Developer is not
required to construct any additional improvements to this section of the roadway. The City shall
reimburse the Developer under the terms of this Agreement for one-hundred percent (100%) of the
cost of constructing the improvements to Baseline Road/CO Hwy 7 west of Community Ditch and for
any other improvements to Baseline Road/CO Hwy 7 west of Sheridan Boulevard that are
constructed by the Developer.

(2) Northwest Parkway. Developer, in exchange for making right-of-way available
to the Northwest Parkway Highway Authority and the E-470 Highway Authority under separate
agreement with each, and subject to the terms of such agreements, shall have no further obligation
for the design, construction, upgrades, landscaping, etc. for the Northwest Parkway or E-470,
including improvements within the Northwest Parkway or E-470 rights-of-way, or associated with the
interchanges or overpasses at I-25, Sheridan Blvd., Lowell Blvd., Huron Street and County Line
Road, and the overpass at I-25 and W. 160th Ave, but excluding the trail referenced in section
7(b)(2) of this Agreement.

(3) I-25/CO Hwy 7 Interchange. Developer and the Anthem West PUD have no
duty or obligation to contribute to the cost of reconstruction of the I-25/CO Hwy 7 Interchange and
related improvements.

B. Traffic Signals. The traffic study submitted with the Anthem PUDs suggests that
traffic signals attributed, in part, to the Anthem West PUD development will be required at specific
intersections. These locations and the need for other or additional traffic signals will be further
reviewed using more detailed traffic analyses when proposed site development plans for the
Property are submitted to the City. Cost estimates for traffic signals determined to be necessary will
be included in estimates for street improvement costs for those streets where traffic signals will be
installed. The Developer shall be responsible for the design and construction, and pay all cost of
construction, of all traffic signals internal to the Anthem West PUD unless identified in the following
sentence. The costs of design and construction of the traffic signals at the intersections of
Sheridan/Lowell Boulevard, and Lowell Boulevard/State Highway 7 will be allocated between
Developer and City or an adjoining landowner(s) (but not Anthem East) as determined by traffic
studies which shall be used to allocate to City or an adjoining landowner(s) and Developer each
such party's pro rata share of total trip generation. Reimbursement of these traffic signal costs shall
be in accordance with subsection C of this Section 9 and Section 16 of this Agreement or may occur
by reimbursement from a special district. The Developer's obligation to pay a pro rata share of the
costs of design and construction of traffic signals will expire with respect to the costs of any traffic
signal improvements for which installation has not commenced as of the date that the City issues
the last building permit for a detached single family residential dwelling on an unimproved platted
subdivision lot within the Anthem West PUD, except that this expiration will not apply to the traffic
signal at the intersection of Lowell Boulevard and State Highway 7.

C. City's Share of Street Improvement Costs.

(1) City Share. To the extent graded or constructed by the Developer, the
City shall reimburse the Developer for one-third (1/3) the cost of grading and constructing the
following Arterial Streets within the boundaries of the Anthem PUDs; Lowell Boulevard; and W.
160th Ave west of the Community Ditch. The City shall reimburse the Developer for one-third (1/3)
the cost of constructing Sheridan Boulevard-Phase 1 as identified on the Schedule for
Improvements of Arterial Streets set forth in Section 9.D of this Agreement. If the Developer constructs any arterial street outside of the boundaries of the Anthem PUDs with the approval of the City, then the City shall reimburse the Developer for one-hundred percent (100%) of the cost of constructing such arterial.

(2) Definition of Costs. As used in this Section of the Agreement, the term "cost" means all costs of construction including, but not limited to: all engineering and landscape design, loan and interest costs, contractor’s fees, construction supervision, materials, construction labor, permits, and other direct costs of improvements. However such costs shall not include the Developer’s time, or Developer’s fees.

(3) Reimbursements of Street Improvement Costs. The City’s source of revenues to pay for the aforesaid roadway and traffic signal reimbursements and the use of such revenues are set forth in Section 16 of this Agreement.

D. Improvement Schedule for Arterial Streets.

<table>
<thead>
<tr>
<th>Arterial Street</th>
<th>Begin Construction</th>
<th>Complete Construction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sheridan Boulevard – Phase 1</td>
<td>Improvements are complete as of the date of this Agreement.</td>
<td>N/A</td>
</tr>
<tr>
<td>Initial construction of two (2) lanes from Baseline Road/CO Hwy 7 on the north to Lowell Boulevard (right-of-way landscaping and any other right-of-way improvements to be constructed by others)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>N/A - Sheridan Boulevard – Phase 2</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Widening to four (4) lanes from Baseline Road/CO Hwy 7 on the north to Lowell Boulevard. To be constructed by others.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sheridan Boulevard - Phase 3 (Offsite)</td>
<td>Improvements are complete as of the date of this Agreement and no additional offsite Sheridan improvements are required pursuant to this Agreement.</td>
<td>N/A - Any additional or further improvements are to be completed by others</td>
</tr>
<tr>
<td>Four (4) lanes west of Lowell Boulevard to the northern/eastern boundary of property annexed to City by Archdiocese</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lowell Boulevard – Phase 1</td>
<td>Improvements are complete as of the date of this Agreement, except right-of-way landscape which will be completed as adjacent development occurs.</td>
<td>N/A</td>
</tr>
<tr>
<td>Initial construction of four (4) lanes from Baseline Road/CO Hwy 7 on the north to Preble Creek Parkway to the south, and construction of two (2) lanes from Preble Creek Parkway to a point at approximately 152nd Avenue.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lowell Boulevard – Phase 2</td>
<td>A portion of Lowell Boulevard – Phase 2 has been widened to 4 lanes. Based upon traffic studies, Developer is not required to complete any additional widening of Lowell Boulevard to 4 lanes</td>
<td>N/A</td>
</tr>
<tr>
<td>Widening to four (4) lanes from Preble Creek Parkway on the north to Sheridan Boulevard (excluding the Northwest Parkway right-of-way)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>West 160th Avenue – Phase 1</td>
<td>(See note 1 below)</td>
<td></td>
</tr>
<tr>
<td>Dedication of parcel(s) for municipal use running from the west boundary of the Anthem West PUD to Lowell Boulevard.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>West 160th Avenue – Phase 2</td>
<td>(See note 1 below)</td>
<td></td>
</tr>
<tr>
<td>Dedication of right of way from Lowell Boulevard to Community Ditch</td>
<td></td>
<td></td>
</tr>
<tr>
<td>West 160th Avenue – Phase 3</td>
<td>(See note 2 below)</td>
<td></td>
</tr>
<tr>
<td>Initial construction of two (2) lanes from Lowell Boulevard to Community Ditch</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
West 160th Avenue – Phase 4
Widening to four (4) lanes from Lowell Boulevard to Community Ditch

Baseline Road/CO Hwy 7 west of Community Ditch

| Improvements are complete as of the date of this Agreement. | N/A |

NOTES:
(1) The Developer's obligation for W. 160th Avenue from the west boundary of the Anthem West PUD to Lowell shall be to dedicate parcels for municipal use only. Developer will dedicate the right-of-way for W. 160th Avenue from Lowell Boulevard to the Community Ditch. Developer has completed the relocation of the Xcel Energy power lines as required for any future construction of a roadway within the W. 160th Avenue right-of-way.

(2) Construction of W. 160th Avenue – Phase 3 from Lowell Boulevard to the Community Ditch will be completed not later than December 31, 2012. Construction of W. 160th Avenue – Phase 4 from Lowell Boulevard to the Community Ditch will be completed not later than the date that the City approves the last building permit for a detached single family residential dwelling unit on an unimproved platted subdivision lot within the Anthem West PUD. Construction of the segment of W. 160th Avenue from Lowell Boulevard to the Community Ditch will be coordinated with the construction of that segment of W. 160th Avenue from the Community Ditch to Sheridan Boulevard that is being constructed by others within Anthem East so that the construction of both segments of W. 160th Avenue occurs simultaneously.

10. SANITARY SEWER IMPROVEMENTS

A. City's Sanitary Sewer Master Plan. Development within the Anthem West PUD shall connect to the City's sanitary sewer system in a manner consistent with the City's Sanitary Sewer Master Plan and Utility Reports incorporated into the Anthem PUDs.

B. Construction of Specific Sanitary Sewer Improvements. The Developer shall construct, at the Developer's expense, subject to reimbursement by the City, sanitary sewer improvements consisting of force mains, gravity mains and lift stations, and appurtenances thereto, required in order to serve the Anthem West PUD in accordance with City Standards and Specifications, and in accordance with the City approved design documents. The City and Developer acknowledge and agree that all force mains, gravity mains and lift stations, required to serve the approved Anthem West PUD have been constructed and are complete, subject to any outstanding warranty obligations.

C. Oversized Sewer Outfall Lines. With regard to any sewer outfall line that is being constructed at the Developer's sole expense, the City may, at its option, request the Developer to oversize sewer outfall lines being constructed by the Developer above the capacity required to serve the Anthem West PUD to accommodate the service needs of other properties. In such event, the City shall reimburse, or cause such other users to reimburse, the Developer for the incremental cost difference for such oversizing at the commencement of construction by such other users. As used herein, “incremental cost” means the cost difference in pipe size and related facilities. The Developer is not obligated to oversize unless the Developer’s obligation to oversize sewer outfall lines is set forth in a separate mutually acceptable agreement negotiated by the parties that establishes the means and timing of cost recovery or reimbursement of costs, the source of funds for cost recovery or reimbursement, and whether the City will cause other benefited landowners (but not Anthem East owners) to participate in reimbursing the Developer. The reimbursement funds identified in Section 16.E of either this Agreement or the Anthem East PUD Agreement will not be established and used as a source of funds for reimbursement of the Developer for oversizing sewer outfall lines hereafter constructed.

D. Capacity Improvements to City Sewage Treatment Facilities. City shall at its sole cost and expense, ensure that there is sufficient capacity in the system to serve the Anthem West
PUD and shall make all necessary capacity improvements that are required to serve the
development phasing of the Anthem West PUD. Should these improvements not be completed in
accordance with the development schedule of the Anthem West PUD, resulting in a delay of
development, Developer shall have the option of funding the completion of such improvements and
being reimbursed therefore by the City. Reimbursement shall be in accordance with Section 16 of
this Agreement. Notwithstanding the foregoing, the City's failure to complete or cause to be
completed by others the construction of a separate lift station, in addition to the completed Anthem
West Lift Station, to ensure that there is sufficient capacity in the City's Sewage Treatment system
to serve development near the intersection of SH 7 and I-25, including Anthem East and other
proposed development in the vicinity of this intersection, shall not obligate the Developer to fund any
additional lift station and in such event the City shall not be entitled to use the Anthem West Lift
Station as a pass-through to serve development near the intersection of SH 7 and I-25 as described
in subsection (1) below if such use delays development within the Anthem West PUD or renders the
capacity of the Anthem West Lift Station inadequate for the purpose of serving the Anthem West
PUD.

(1) **Capacity Availability of Anthem West Lift Station.** The Anthem West PUD
development constructed a Lift Station to serve the Anthem West PUD. The City has
planned to utilize the Anthem West Lift Station as an interim, pass-through, system to serve
development near the intersection of SH 7 and I-25 including Anthem East and other
proposed development in the vicinity of that intersection. The City shall construct a regional
lift station within or in the vicinity of the intersection of SH 7 and I-25 to serve the northeast
portions of the City (the "Additional Lift Station"). However, the initial phase of this system
will not extend sanitary force mains to the Broomfield Wastewater Treatment Facility and will
temporarily require wastewater flow to pass through the Anthem West Lift Station. In order
to eliminate the wastewater flow passing through the Anthem West Lift Station, the City must
initiate the construction of the force mains extending from the Additional Lift Station to
Broomfield's Wastewater Treatment Facility no later than when the Anthem West Lift Station
reaches 70% flow capacity. The parties acknowledge that the Anthem West Lift Station was
constructed to serve the Anthem West PUD and the City's use of the Anthem West Lift
Station as a pass-through shall not be reason to delay development within the Anthem West
PUD, nor delay the construction of an Additional Lift Station to serve Anthem East. The
parties acknowledge that the Anthem West Lift Station may only be used as a pass-through
to the extent there is capacity in the Anthem West Lift Station which is not being used to
serve the Anthem West PUD, and provided that construction of the Additional Lift Station
and the force mains to the Broomfield's Wastewater Treatment Facility are initiated no later
than when flows reach 70% capacity of the Anthem West Lift Station, and the pass-through
use may not impose costs on the owners of property within the Anthem West PUD.
Capacity in the Anthem West Lift Station will be made available when it is needed to serve
the Anthem West PUD so that the Anthem West Lift Station is not rendered inadequate for
the purpose of serving the Anthem West PUD by reason of being used to serve other
properties.

E. **Reimbursement/Participation Cost of Sanitary Sewer Improvement Costs.** The City
shall reimburse the Developer for one-hundred percent (100%) of the cost of the sanitary sewer
improvements that the Developer constructs outside of the boundaries of the Anthem West PUD.
To the extent constructed by the Developer, the City shall also reimburse the Developer for one-
hundred percent (100%) of the cost of lift station(s) and force mains that serve the Anthem West
PUD. As used in this Section of the Agreement, the term "cost" means all costs of construction
including, but not limited to: all engineering and design, loan and interest costs, contractor's fees,
construction supervision, materials, construction labor, permits, and other direct costs of
improvements. However such costs shall not include the Developer's time or Developer's fees. The
City's source of revenues to pay for the aforesaid reimbursements and the use of such revenues are set forth in Section 16 of this Agreement.

11. WATER SYSTEM IMPROVEMENTS

A. City's Water Master Plan. The Anthem West PUD development shall connect to the City's water system in a manner consistent with the City's Water Master Plan and Utility Reports incorporated into the Anthem West PUD.

B. Construction of Water Lines. The Developer shall construct, at the Developer's expense, subject to reimbursement by the City, and in accordance with the City approved design documents, all water distribution mains required for the development of the Anthem West PUD at such time as they are required to serve each phase of the Anthem West development. Water lines shall be designed in accordance with the City's Standards and Specifications. The City and Developer agree that as of the date of this Agreement all off-site water distribution mains and other off-site water system improvements that are necessary to serve Anthem West have been installed and constructed and Developer has no further obligation arising under this Agreement to construct or pay for off-site water system improvements.

C. Reimbursement/Participation Cost of Water System Improvement Costs. The City shall reimburse the Developer for one-hundred percent (100%) of the cost of the following water system improvements: (i) any water mains constructed by Developer outside the boundaries of the Anthem PUDs; and (ii) to the extent constructed by Developer, all water mains within the right-of-way for Sheridan Boulevard, and W. 160th Ave. from Sheridan Boulevard to Huron Street. As used in this Section of the Agreement, the term "cost" means all costs of construction including, but not limited to: all engineering and design, loan and interest costs, contractor's fees, construction supervision, materials, construction labor, permits, and other direct costs of improvements. However such costs shall not include the Developer's time or Developer's fees. The City's source of revenues to pay for the aforesaid reimbursements and the use of such revenues are set forth in Section 16 of this Agreement.

D. Oversized Water Facilities. With regard to any water lines that are being constructed at the Developer's sole expense, the City may, at its option, request the Developer to oversize selected water lines that are constructed by the Developer within the Anthem PUDs above the capacity required to serve the Anthem West PUD to accommodate the service needs of other properties. In such event, the City shall reimburse, or cause such other users to reimburse, the Developer for the incremental cost difference for such oversizing at the commencement of construction by such other users. As used herein, "incremental cost" means the cost difference in pipe size and related facilities. The Developer is not obligated to oversize unless the Developer's obligation to oversize water lines is set forth in a separate mutually acceptable agreement negotiated by the parties that establishes the means and timing of cost recovery or reimbursement of costs, the source of funds (other than funds identified in Section 16.E of this Agreement) for cost recovery or reimbursement, and whether the City will cause other benefited landowners to participate in reimbursing the Developer.

E. Irrigation Water System. The City and Developer are parties to the City and County of Broomfield Improvement Agreement for Anthem PUD Non-Potable Irrigation Improvements dated January 13, 2009 (the "Non-Potable Agreement"). The Non-Potable Agreement concerns the acquisition of water interests and infrastructure and other matters related to establishing an irrigation water system for the purposes of irrigating public/common area landscaping, and landscaping on multi-family and commercial building sites within the Anthem PUD. The City and Developer agree that an irrigation water system to serve the Anthem West PUD will
be established in accordance with the terms and provisions of the Non-Potable Agreement. The irrigation water system must be designed in accordance with City Standards and Specifications in a manner acceptable to the City Engineer. The City shall provide water required for the irrigation of the Arterial Street rights-of-way as defined in Section 9 of this Agreement, without charge or cost to the Developer.

12. STORM DRAINAGE IMPROVEMENTS

Developer shall design and construct, or cause the design and construction of storm drainage improvements required to serve the Anthem West PUD, and has no duty to design or construct storm drainage improvements that are required for the construction of, or to serve, the Northwest Parkway, Anthem East, Tract W-27, Tract W-28 or those portions of Tract W-26 located east of Community Ditch. All major storm drainage improvements will be dedicated to the City in each final subdivision plat, however Developer reserves the right to include maintenance of the facilities in either an association for the property or in a special district.

13. PHASING

The parties agree that the Property, including the public improvements necessary to serve the Property, may be developed in one or more development phases, in conformity with Exhibit B to this Agreement as it applies to specific areas and uses, and each phase may consist of a portion or subparcel of the Property containing one or more land use designations or classifications as set forth on the Anthem West PUD. Prior to the development of one or more phases, a subdivision plat and/or site development plan as required pursuant to the City's zoning and subdivision regulations shall be submitted for approval or have been previously approved for that phase of development. Nothing herein shall preclude the processing of an overall subdivision plat for the Property to divide the Property into development parcels for sale, but such subdivision shall not exempt any such development parcel from any further subdivision requirements under the City's subdivision regulations. Each phase or subparcel of the land constituting part of the Property may be developed independently of, and not conditioned upon, the development of any other parcel, except as necessary to provide for the orderly and sequential development of the Property and the public improvements required therefore.

14. RELATIONSHIP TO CITY PLANNING REQUIREMENTS AND DOCUMENTS

All terms and conditions of this Agreement shall be subject to the I-25 Sub-Area Plan, provided however, that any conflict or discrepancy between this Agreement and the I-25 Sub-Area Plan shall be controlled by the provisions of this Agreement and the Anthem West PUD. All terms of this Agreement shall be subject to City review and approval of the PUD plans, site development plans, subdivision plats and subdivision improvement agreements for the Property pursuant to Titles 16 and 17 of the Broomfield Municipal Code, and consistent with the provisions of this Agreement and the Amended Vesting Agreement.

15. NOTICES

Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if personally served or if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth below, or at such other address as have been previously furnished in writing to the other party or parties. Such mailed notice shall be deemed to have been given when deposited in the mail of the United States Postal Service.
16. SOURCES AND USES OF FUNDS FOR CITY'S COSTS

The parties agree that any financing and/or refinancing of the public improvements eligible for reimbursement under this Agreement, (the term "Agreement" includes any subsequent agreement or other document implementing this Agreement, including the Reimbursement Agreement) shall be subject to the following terms and conditions:

A. Monetary Obligations.

(1) That portion of the City's reimbursement obligations under this Agreement and the Reimbursement Agreement derived from the revenue sources identified in Section 16.E below shall constitute a multiple-fiscal year obligation of the City.

(2) Except for the reimbursement obligation identified in subsection A(1) above:

   a. The monetary obligations of the City under this Agreement shall not constitute the creation of an indebtedness or authorize borrowing of money by the City within the meaning of any constitutional, home rule charter or statutory limitation or provision;

   b. The monetary obligations of the City under this Agreement shall be from year to year only and shall not constitute a mandatory payment obligation of the City in any fiscal year beyond the present fiscal year;

   c. This Agreement shall not directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year in which this Agreement shall be in effect;

   d. The City Manager (or any other officer or employee at the time charged with the responsibility of formulating budget proposals) is hereby directed to
include in the budget proposals submitted to the City Council, in each year prior to
termination or expiration of this Agreement, amounts sufficient to meet its obligations
hereunder, it being the intent, however, that the decision as to whether to
appropriate such amounts shall be at the discretion of the City Council.

B. In no event will the obligation to reimburse the Developer exceed the costs of the
improvements as included elsewhere in this Agreement. All reimbursable expenditures covered by
this Agreement shall be subject to reasonable cost certification and audit requirements established
by the City, which requirements shall be approved and administered in a reasonable manner and
time, and set forth in a memorandum of understanding between the City and Developer and/or
Special District.

C. In addition, the City agrees to pay interest on the unpaid balance of the
reimbursement obligation, which interest will commence to accrue only upon the commencement of
the construction of the reimbursable improvement (but nothing herein shall require the City to
operate and/or maintain any such public improvements unless and until the City expressly assumes
such responsibility in writing). Interest on the City’s obligations shall be excludable from gross
income for federal income tax purposes under the Internal Revenue Code (the “Code”), subject to
the provisions of the Code. All such expenditures for construction of the public improvements shall
constitute Qualified Reimbursement Costs as defined in the Code; provided, however,
notwithstanding any language in this Agreement to the contrary, the interest payable by the City on
any and all reimbursement obligation or obligations under this Agreement or any subsequent
agreement or other document implementing this Agreement shall be the one-year London Interbank
Offered Rate (LIBOR), as published in the Wall Street Journal, plus two percent (2%) (LIBOR + 2%),
provided, however, in no event shall the interest rate exceed 8.5%, and, furthermore, the total
amount of interest payable by the City on its reimbursement obligations for the cost of sanitary sewer
improvements under Section 10.E of this Agreement shall not exceed the sum of Seven Million Five
Hundred Thousand Dollars ($7,500,000.00).

D. Notwithstanding, any language in this Agreement to the contrary, the City's obligation
to make payments shall end on the earlier of full payment of the reimbursement obligation described
herein (including interest) or the 40th anniversary from the date of issuance of debt for the
improvement, but in no case shall the reimbursement extend beyond 35 years from the effective
date of this Agreement.

E. Subject to the terms and conditions set forth in this Agreement and the
Reimbursement Agreement, the City agrees to annually budget, appropriate and deposit into the
reimbursement fund (the “Reimbursement Fund”) created in the Reimbursement Agreement for
Anthem West or the Special District the following monies. The City's reimbursement obligations
under this Agreement derived from the revenue sources identified in this Section 16.E and the
Reimbursement Agreement shall constitute multiple-fiscal year obligations of the City. The monies
deposited into the Reimbursement Fund for Anthem West or the Special District shall be separate
from any reimbursement fund established for the Anthem East PUD pursuant to the Anthem East
PUD Agreement:

   (1) an amount equal to 50% of the City's available sales tax revenues (the City's
   sales tax rate is currently 3.75%, but only 3.5% is available because 0.25 % is presently allocated
   for open space) imposed upon any sales or rentals and services in the private improvements
   constructed on the Property; provided, however, notwithstanding the foregoing language or any
   other language in this Agreement to the contrary, the City shall levy a county sales tax (currently
   estimated to be 0.4%) for purposes of county administration (the “Administration Levy”), the
   proceeds of which shall be separate from and in addition to the available sales tax revenues, and no
   part of the proceeds of the Administration Levy shall be committed to the reimbursement obligation;
(2) an amount equal to 70% of the City's available use tax (the City's use tax rate is 3.75%, but only 3.5% is available because 0.25% is presently allocated for open space) collected on building and construction materials collected from within the Property;

(3) an amount equal to 50% of the Service Expansion Fee charged and collected by the City for residential uses developed and constructed within the Property;

(4) an amount equal to:
   a. $1,095 per Equivalent Residential Unit (ERU) for each sewer license fee for sewer licenses purchased for use within the Property; and
   b. $1,095 per ERU for each sewer license fee for each sewer license that is purchased for use within Anthem East, and which sewer license is used for sewer service that is connected to the Anthem West Lift Station. The City has informed Developer that the Anthem West Lift Station will have an estimated available excess capacity of 235 ERUs to serve Anthem East and the Developer will be entitled to reimbursement from sewer licenses that are issued within Anthem East for sewer service to property that is connected to the Anthem West Lift Station. The reimbursement provided for in subsection b. above is intended to reimburse Developer for expenditures that Developer has made with respect to the Anthem West Lift Station and the appurtenant force main and the associated benefits conferred on Anthem East. The City agrees from time to time, but not less than annually, to provide notice to Developer of any reimbursements to which Developer is entitled pursuant to subsection b. above. At all times until the City's reimbursement obligation to the Developer for eligible sanitary sewer improvements has been satisfied, the City agrees that an amount equal to $1,095 per Equivalent Residential Unit for each sewer license fee for sewer licenses purchased for use within Anthem East as described in subsection b. above will be deposited into the reimbursement fund for Anthem West and such amounts will not be pledged or used for any other obligation, including without limitation reimbursements for Anthem East.

(5) an amount equal to: $1,095 per ERU for each sewer license fee for those sewer licenses, if any, that are purchased for use within Anthem East for sewer service on property that does not utilize the Anthem West Lift Station at a time when the developer under the Anthem East PUD Agreement (the "Anthem East Developer") is no longer entitled to be reimbursed for such sewer license fees under the terms of the Anthem East PUD Agreement. In accordance with the Anthem East PUD Agreement, the Anthem East Developer shall be entitled to receive reimbursement for all sewer license fees for sewer licenses issued within Anthem East for sewer service which does not use the Anthem West Lift Station so long as:
   a. outstanding reimbursements are due from the City to the Anthem East Developer for construction or financing of sanitary sewer public improvements which are eligible for reimbursement under the terms of the Anthem East PUD Agreement ("Eligible Improvements");
   b. Eligible Improvements are under construction;
   c. the Anthem East Developer has submitted to the City construction plans and specifications for any of the Eligible Improvements;
d. the Anthem East Developer is in the process of actively designing construction plans and specifications for any of the Eligible Improvements; or

e. the Anthem East Developer is making good faith efforts to plan and design Eligible Improvements necessary for all phases of development of Anthem East and, if requested by the City, has provided evidence reasonably acceptable to the City of such efforts. The City's determination of compliance with this Subsection 16E(5)(e) shall be made in its sole discretion and shall be a final decision binding upon the Anthem East Developer and the Developer.

Notwithstanding the foregoing, to the extent that the City and Anthem East Developer agree that sufficient funds have been set aside under the Anthem East PUD Agreement to pay for all Eligible Improvements within Anthem East, including without limitation taking into consideration future increased construction costs and changes to the design of Eligible Improvements, the City shall thereafter utilize any excess thereof received from Anthem East sewer license fees to reimburse the Developer for eligible sanitary sewer public improvements under this Agreement.

(6) an amount equal to $2,077 per Tap Equivalent (T.E.) for each water license fee for water licenses purchased for use within the Property.

F. The deposits into the Reimbursement Fund for Anthem West or the Special District are subject to the provisions of the City Charter and Broomfield Municipal Code, except to the extent that any provisions of the Broomfield Municipal Code that are adopted after the date of this Agreement conflict with this Agreement, and debt service requirements on the following outstanding obligations; provided, however, that the City agrees that none of the monies required to be allocated to the appropriate reimbursement fund pursuant to the terms of this Agreement shall be utilized to pay or service such obligations unless and until all other sales tax funding sources available to the City have been exhausted; and provided further that nothing in this Agreement shall be considered actions by the City to impair any right of any existing bondholder under ordinances authorizing issuance of such bonds. The Parties acknowledge that the applicable sales tax rate may change from time to time and that the allocation percentage shall apply to all sales taxes collected from the private improvements, regardless of any fluctuation in the rates. The City has previously issued its $76,655,000 Sales and Use Tax Revenue Refunding and Improvement Bonds, Series 2002A (the "Series 2002A Bonds") and its $10,960,000 Convertible Sales and Use Tax Revenue Refunding Bonds, Series 2002B (the "Series 2002B Bonds") and its $30,335,000 Taxable Sales and Use Tax Revenue Refunding Bonds, Series 2002C (the "Series 2002C Bonds"). The outstanding principal amount of Series 2002A Bonds (as of December 31, 2008) is $76,655,000. The outstanding principal amount of the Series 2002B Bonds (as of December 31, 2008) is $10,960,000. The outstanding principal amount of the Series 2002C Bonds (as of March 31, 2006) is $15,675,000. The Series 2002A, 2002B and 2002C Bonds are payable solely from and are secured by a first and prior lien, but not necessarily an exclusive first lien, on one-third of the proceeds of the City and County's 3.5 % Sales and Use Tax imposed by Chapters 3.04 and 3.08 of the Broomfield Municipal Code plus other revenues as provided in the Bond Ordinance. The City has reserved the right to issue bonds on a parity with the Series 2002A, 2002B and 2002C Bonds. After monthly payments into the various funds and accounts created under the Ordinance authorizing the Series 2002A, 2002B and 2002C Bonds, the Series 2002A, 2002B and 2002C Bonds Pledged Revenues may be used for any lawful purpose as the City Council may direct. The Series 2002A, 2002B and 2002C Bond Ordinance does not contain debt service ratio covenants.

G. The reimbursement obligation of the City, including interest, payable to the Developer or the Special District hereunder shall be payable solely from: (1) the amounts in the Reimbursement Fund for Anthem West or the Special District and (2) any prepayment made in accordance with Subsection H. In addition, any funds recovered by either party as reimbursement
for any and all expenditures for the public improvements, including without limitation, any amounts recovered from public utility companies and other developers, will be credited forthwith to the outstanding reimbursement obligation. Payments from the appropriate reimbursement fund will be made monthly and shall be credited in accordance with reasonable procedures developed by the City. Notwithstanding anything to the contrary in this Agreement, the monies derived from sewer license fees under Sections 16(E)(4) and 16(E)(5) above may only be used for the purpose of reimbursing Developer for sewer improvements, and the monies derived from water license fees under Section 16(E)(6) above may only be used for the purpose of reimbursing Developer for water improvements.

H. The City shall have the right to prepay the reimbursement obligations, including interest, in whole or in part at any time.

I. Any funds received by a special district for reimbursement of City obligations which are performed by the special district shall be used only for the reduction of debt incurred by the special district for the construction of improvements identified within this Agreement, the Reimbursement Agreement and the special district’s Service Plan.

17. THIRD PARTY REIMBURSEMENTS.

With regard to development agreements with third-party developers whose developments have benefited from public improvements constructed or paid for by the Developer (not including developers of Anthem East), the City agrees to use best efforts to require in such agreements the reimbursement to Developer of all or a portion of the costs of such improvements in accordance with the City’s adopted policies, practices and/or regulations for allocation of costs for specific public improvements.

18. MISCELLANEOUS

A. Financial Obligations. Except for the City’s reimbursement obligations as described in Section 16.A of this Agreement, all financial obligations of the City under this Agreement are subject to annual appropriation, budgeting and availability of funds to discharge such obligations. Nothing in this Agreement shall be deemed to pledge the City’s credit or faith, directly or indirectly, to the other parties to this Agreement.

B. Conflicts. If any terms or provisions of this Agreement conflict with or are inconsistent with any terms or provisions contained in any annexation agreement with the City for any portion of the land contained within the Property, then the terms and provisions of this Agreement shall control.

C. Binding Agreement. This Agreement runs with the Property and the terms and provisions hereof inure to the benefit of and are binding upon the parties hereto and their respective successors and assigns, and the terms herein “City” and “Developer” include such successors and assigns.

D. Section Headings. The Section headings in this Agreement are for convenience only and shall not be considered a part of the Agreement or used in its interpretation.

E. Severability. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, or if any provision hereof is or becomes impracticable, the remaining provisions and the Agreement as a whole shall nevertheless continue in full force and effect without being impaired or invalidated in any way, and the parties shall replace the invalid, unenforceable or impracticable provision with a valid, enforceable or practical provision which shall
meet with the economic aims of the invalid, unenforceable or impracticable provision as closely as possible.

F. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

G. Integration and Amendment. This Agreement sets forth the entire understanding and agreement of the parties hereto with regard to the subject matter hereof in lieu of any prior agreement, discussion or understanding except as set forth in the Recitals, and except that the parties acknowledge that the Property is also subject to and governed by other agreements concerning the development of the Property and the Anthem West PUD to which the City, Developer and/or other persons are parties. Specifically, the parties acknowledge that the Property is subject to that certain Vesting Agreement approved by the City Council of the City of Broomfield under Ordinance No. 1547, as amended by the Anthem West Amendment To Vesting Agreement For Preble Creek PUD, as may be further amended from time to time (the “Vesting Agreement”), and all other approved Improvement Agreements and Subdivision Agreements pertaining to the Anthem West PUD, and agree that this Agreement and said Vesting Agreement and all other approved Improvement and Subdivision Agreements shall be “in pari materia” such that in the construction of the agreements as they relate to the same subject matter or the same general purpose they shall be read together. The parties further acknowledge and anticipate that the Property shall be the subject of additional agreements consistent with this Agreement and which are logical extensions thereof concerning its development by and between the City, Developer, its assignees, and or other parties. This Agreement may be amended only by an instrument in writing signed by the parties.

H. No Presumption. All parties hereto and their attorneys have had full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the party causing the Agreement to be drafted.

I. Waiver. A waiver by any party to this Agreement of the breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.

J. No Third-Party Beneficiaries. This Agreement is intended to describe rights and responsibilities only as to the parties hereto, their successors and assigns. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto.

K. Good Faith. In the performance of this Agreement, the parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any act required or necessary to the good faith performance of this Agreement. The City will use its best efforts to expedite all of the City development regulatory processes to the extent necessary for the timely development and construction of Anthem West, including but not limited to processes, procedures and inspections for construction and final acceptance of public improvements, and the review and processing of each residential building permit application within a reasonable period of time. The City is not responsible for delays in processing caused by the Developer or third-parties.

L. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.
M. Sole Source Contract. To the extent this Agreement may be construed to be a 'sole source contract' within the meaning of sections 15 through 17 of Article XXVIII of the Colorado Constitution, and to the extent these constitutional provisions haven not been enjoined or invalidated by a court of competent jurisdiction, the requirements and limitations of these constitutional provisions are hereby incorporated in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY AND COUNTY OF BROOMFIELD, a Colorado municipal corporation and county

By: ______________________________
Its: ______________________________

STATE OF COLORADO )
) ss.
County of _______ )

The foregoing Agreement was acknowledged before me this _____ day of ____________, 2009, by ______________________ as ______________________ of CITY AND COUNTY OF BROOMFIELD, a Colorado municipal corporation and county.

My commission expires: ______________________

______________________________
Notary Public
PULTE HOME CORPORATION,  
a Michigan corporation  

By: ____________________________  
Its: ATTORNEY-IN-FACT  

STATE OF COLORADO  

Douglas County of CO  

The foregoing Agreement was acknowledged before me this 10th day of March, 2009, by Mutt Mendine as Attorney in Fact of PULTE HOME CORPORATION, a Michigan corporation.  

My commission expires: 1/27/2013  

Notary Public

JOSEPH HOLLOWAY  
Notary Public  
State of Colorado  
My Commission Expires January 27, 2013
CONSENT OF MCWHINNEY CCOB LAND INVESTMENTS, LLC,
AND MCWHINNEY REAL ESTATE SERVICES, INC.

The undersigned, being an Owner and the developer of certain portions of the Property subject to the
Anthem PUD Agreement, hereby consents, as required by Section 17.0 of the Anthem PUD Agreement as
defined herein, to the amendment of the Anthem PUD Agreement by this Agreement. By signing the consent
below, the undersigned does not become a party to this Agreement and, accordingly, shall have no rights or
obligations in connection therewith, except for the obligations and requirements applicable to the Anthem East
PUD Agreement as set forth in Section 16.E, nor shall the undersigned's consent be required for any future
amendments to this Agreement, except for amendments to Sections 6.C, 9, 10.C and 16 of this Agreement
that materially diminish the rights of the undersigned, or that expressly create or impose obligations on any
portion of Anthem East as owned by the undersigned which obligations are different in substance that those
presently imposed on Anthem East pursuant to this Agreement. To the extent that there are any conflicts
between the Agreement or the Anthem East PUD Agreement, including the Consents attached thereto (the
"PUD Agreements"), and any other agreement between the undersigned and the Developer, the PUD
Agreements are controlling.

MCWHINNEY CCOB LAND INVESTMENTS, LLC
a Colorado limited liability company
formerly CCOB I, LLC, a Colorado limited liability company

By: MCWHINNEY REAL ESTATE SERVICES, INC.
a Colorado corporation, Manager

By: 
Its: First Vice President
Date: March 10, 2009

STATE OF COLORADO

County of Larimer

The foregoing Consent was acknowledged before me this 10th day of March, 2009, by Troy C.
McWhinney as First Vice President of MCWHINNEY REAL ESTATE SERVICES, INC., a Colorado corporation,
Manager of MCWHINNEY CCOB LAND INVESTMENTS, LLC, a Colorado limited liability company, formerly CCOB I,
LLC, a Colorado limited liability company.

My commission expires: 07-27-2010

STATE OF COLORADO

County of Larimer

The foregoing Consent was acknowledged before me this 10th day of March, 2009, by Troy C.
McWhinney as First Vice President of MCWHINNEY REAL ESTATE SERVICES, INC., a Colorado corporation,
Manager of MCWHINNEY CCOB LAND INVESTMENTS, LLC, a Colorado limited liability company, formerly CCOB I,
LLC, a Colorado limited liability company.

My commission expires: 07-27-2010

STATE OF COLORADO

County of Larimer

The foregoing Consent was acknowledged before me this 10th day of March, 2009, by Troy C.
McWhinney as First Vice President of MCWHINNEY REAL ESTATE SERVICES, INC., a Colorado corporation,
Manager of MCWHINNEY CCOB LAND INVESTMENTS, LLC, a Colorado limited liability company, formerly CCOB I,
LLC, a Colorado limited liability company.

My commission expires: 07-27-2010

STATE OF COLORADO

County of Larimer

The foregoing Consent was acknowledged before me this 10th day of March, 2009, by Troy C.
McWhinney as First Vice President of MCWHINNEY REAL ESTATE SERVICES, INC., a Colorado corporation,
Manager of MCWHINNEY CCOB LAND INVESTMENTS, LLC, a Colorado limited liability company, formerly CCOB I,
LLC, a Colorado limited liability company.

My commission expires: 07-27-2010
The foregoing Consent was acknowledged before me this 10th day of March, 2009, by Troy C. McWhinney as First Vice President of MCWHINNEY REAL ESTATE SERVICES, INC., a Colorado corporation.

My commission expires: 07-27-2010

Notary Public
A parcel of land lying in portions of Sections 4, 5, 6, 7 and 8, Township 1 South, Range 68 West of the 6th Principal Meridian, City and County of Broomfield, State of Colorado, being more particularly described as follows:

BEGINNING at the West Quarter corner of said Section 7 (a found 2" iron pipe with aluminum plug);
WHENCE the Northwest corner of said Section 7 (a found 2 ½" aluminum cap down 0.7' stamped "WM STENGEL RLS 4846") bears N00°10'29"W a distance of 2641.31 feet;
THENCE N00°10'29"W along the westerly line of the Northwest Quarter of said Section 7 a distance of 2641.31 feet;
THENCE N00°15'39"W along the westerly line of the Northwest Quarter of said Section 6 a distance of 2634.52 feet;
THENCE N00°14'51"W along the westerly line of the Northwest Quarter of said Section 6 a distance of 2260.19 feet;
THENCE N89°40'36"E W along a line being 75.00 feet southerly of and parallel with the northerly line of the Northwest Quarter of said Section 6 a distance of 2402.18 feet;
THENCE the following five (5) courses along the southerly line of Colorado Department of Highways Federal Aid Project No. S0048(1) State Highway No.7 1964:
1. THENCE S45°11'48"E a distance of 70.55 feet;
2. THENCE N89°40'36"E a distance of 5.00 feet;
3. THENCE N89°40'36"E a distance of 30.00 feet;
4. THENCE N89°40'36"E a distance of 30.00 feet;
5. THENCE N44°40'38"E a distance of 70.71 feet;
THENCE N89°40'36"E along a line being 75.00 feet southerly of and parallel with the northerly line of the Northeast Quarter of said Section 6 a distance of 2563.28 feet;
THENCE N89°37'11"E along a line being 75.00 feet southerly of and parallel with the northerly line of the Northeast Quarter of said Section 5 a distance of 2614.20 feet;
THENCE N89°38'18"E along a line being 75.00 feet southerly of and parallel with the northerly line of the Northeast Quarter of said Section 5 a distance of 2614.35 feet;
THENCE N89°35'50"E along a line being 75.00 feet southerly of and parallel with the northerly line of the Northeast Quarter of said Section 4 a distance of 1197.06 feet;
THENCE the following fifteen (15) courses along the easterly line of the Farmer’s Reservoir and Irrigation Company ditch as described at Reception No. 2004002794 recorded in the City & County of Broomfield Clerk & Recorder’s Office on February 25, 2004:

1. S04°49'09"W non-tangent with the following described curve a distance of 105.74 feet;
2. THENCE along the arc of a curve to the right, having a central angle of 34°14'11", a radius of 301.54 feet, a chord bearing of S40°22'52"W a distance of 177.52 feet, and an arc distance of 180.18 feet;
3. THENCE S54°10'01"W non-tangent with the last described curve a distance of 558.73 feet;
4. THENCE along the arc of a curve to the left, having a central angle of 16°34'24", a radius of 1131.28 feet, a chord bearing of S44°41'20"W a distance of 326.09 feet, and an arc distance of 327.23 feet;
5. THENCE S36°03'00"W non-tangent with the last described curve a distance of 389.85 feet;
6. THENCE S35°49'39"W non-tangent with the following described curve a distance of 325.50 feet;
7. THENCE along the arc of a curve to the left, having a central angle of 35°38'33", a radius of 189.15 feet, a chord bearing of S21°31'43"W a distance of 115.78 feet, and an arc distance of 117.67 feet;
8. THENCE along the arc of a curve to the right, non-tangent with the last described curve, having a central angle of 54°33'08", a radius of 343.49 feet, a chord bearing of S40°03'13"W a distance of 314.82 feet, and an arc distance of 327.04 feet;
9. THENCE S68°30'15"W non-tangent with the last described curve a distance of 88.21 feet;
10. THENCE S70°55'12"W non-tangent with the following described curve a distance of 87.76 feet;
11. THENCE along the arc of a curve to the left, having a central angle of 27°54'24", a radius of 626.12 feet, a chord bearing of S58°45'07"W a distance of 301.95 feet, and an arc distance of 304.96 feet;
12. THENCE S46°28'25"W non-tangent with the last described curve a distance of 104.24 feet;
13. THENCE S44°48'13"W a distance of 101.93 feet;
14. THENCE S44°08'32"W a distance of 109.24 feet;
15. THENCE S45°52'39"W a distance of 47.36 feet;
THENCE S36°42'48"E along the easterly line of Outlot 7, Preble Creek Filing No. 2, recorded at the City & County of Broomfield Clerk & Recorder’s Office at Reception No. 2004005785 on April 23, 2004 a distance of 325.19 feet;
THENCE the following four (4) courses along the southerly line of Preble Creek Parkway as dedicated by Preble Creek Filing No. 1, recorded at the City & County of Broomfield Clerk & Recorder’s Office at Reception No. 2004005783 on April 23, 2004:
  1. along the arc of a curve to the left, having a central angle of 26°18'22", a radius of 838.50 feet, a chord bearing of S58°10'57"W a distance of 381.61 feet, and an arc distance of 384.98 feet;
  2. THENCE S45°01'46"W tangent with the last and following described curves a distance of 300.82 feet;
  3. THENCE along the arc of a curve to the right, having a central angle of 41°11'10", a radius of 711.50 feet, a chord bearing S65°37'21"W a distance of 500.51 feet, and an arc distance of 511.45 feet;
  4. THENCE S86°12'56"W tangent with the last described curve a distance of 134.73 feet;
THENCE the following courses twenty seven (27) courses along the easterly line of said Farmer’s Reservoir and Irrigation Company ditch:
  1. S51°28'11"W a distance of 379.73 feet;
  2. THENCE S50°18'36"W a distance of 101.42 feet;
  3. THENCE S51°24'34"W a distance of 200.55 feet;
  4. THENCE S53°46'21"W non-tangent with the following described curve a distance of 123.01 feet;
  5. THENCE along the arc of a curve to the left, having a central angle of 41°17'18", a radius of 212.00 feet, a chord bearing S65°37'21"W a distance of 149.49 feet, and an arc distance of 152.77 feet;
  6. THENCE S12°55'37"W non-tangent with the last described curve a distance of 66.46 feet;
  7. THENCE S17°35'24"W a distance of 37.25 feet;
  8. THENCE S19°03'51"W a distance of 101.08 feet;
  9. THENCE S17°22'45"W non-tangent with the following described curve a distance of 121.15 feet;
10. THENCE along the arc of a curve to the left, having a central angle of 54°10'13", a radius of 240.36 feet, a chord bearing of S01°07'12"E a distance of 218.88 feet, and an arc distance of 227.25 feet;
11. THENCE S24°12'22"E non-tangent with the last described curve a distance of 55.08 feet;
12. THENCE S34°08'27"E a distance of 56.79 feet;
13. THENCE S37°20'57"E a distance of 107.71 feet;
14. THENCE S39°13'49"E a distance of 54.79 feet;
15. THENCE S42°43'09"E a distance of 52.87 feet;
16. THENCE S51°07'11"E non-tangent with the following described curve a distance of 57.27 feet;
17. THENCE along the arc of a curve to the right, having a central angle of 40°09'31", a radius of 564.78 feet, a chord bearing of S33°16'44"E a distance of 387.80 feet, and an arc distance of 395.86 feet;
18. THENCE S03°20'26"E non-tangent with the last described curve a distance of 64.76 feet;
19. THENCE S01°14'17"W a distance of 93.76 feet;
20. THENCE S01°49'58"W a distance of 102.65 feet;
21. THENCE S01°36'17"W a distance of 82.56 feet;
22. THENCE S05°17'18"W a distance of 158.00 feet;
23. THENCE S13°35'17"W a distance of 54.05 feet;
24. THENCE S17°13'13"W non-tangent with the following described curve a distance of 100.39 feet;
25. THENCE along the arc of a curve to the right, having a central angle of 20°43'12", a radius of 311.82 feet, a chord bearing of S26°48'12"W a distance of 112.15 feet, and an arc distance of 112.76 feet;
26. THENCE S33°09'50"W non-tangent with the last described curve a distance of 102.34 feet;
27. THENCE S36°21'41"W a distance of 120.17 feet;

THENCE the following four (4) courses along the northerly line and easterly lines of a parcel of land described in Book 3517, Page 192, recorded at the Adams County Clerk & Recorder's Office on December 9, 1988:
   1. N73°33'30"E a distance of 31.92 feet;
   2. THENCE N70°07'07"E a distance of 1462.01 feet;
   3. THENCE N81°40'36"E a distance of 1091.61 feet;
   4. THENCE S00°33'06"E along the easterly line of the Northeast Quarter of said Section 8 a distance of 797.45 feet;

THENCE the following three (3) courses along the easterly and southerly lines of Parcel TK-7-RT Rev. 1 as described at Reception No. 2001001080, recorded at the City & County of Broomfield Clerk & Recorder's Office on December 20, 2001:
   1. S00°33'13"E non-tangent with the following described curve a distance of 217.28 feet;
   2. THENCE along the arc of a curve to the right, having a central angle of 12°48'57", a radius of 1999.86 feet, a chord bearing of S83°35'31"W a distance of 446.40 feet, and an arc distance of 447.33 feet;
   3. THENCE N89°59'56"W non-tangent with the last described curve a distance of 245.78 feet;

THENCE the following four (4) courses along the southerly line of Sheridan Parkway as dedicated by said Preble Creek Filing No. 1:
   1. S11°00'00"W tangent with the following described curve a distance of 414.70 feet;
   2. THENCE along the arc of a curve to the right, having a central angle of 75°49'23", a radius of 777.00 feet, a chord bearing S48°54'41"W a distance of 954.85 feet, and an arc distance of 1028.25 feet;
   3. THENCE S86°49'23"W tangent with the last and following described curves a distance of 1090.90 feet;
   4. THENCE along the arc of a curve to the left, having a central angle of 11°57'13", a radius of 2423.00 feet, a chord bearing S80°50'46"W a distance of 504.60 feet, and an arc distance of 505.52 feet;

THENCE S29°59'48"E non-tangent with the last described curve and along the southwesterly line of Outlot 9, said Preble Creek Filing No. 1 and the extension thereof a distance of 307.41 feet;
THENCE S90°00'00"E along the southerly line of said Outlot 9 a distance of 319.52 feet;
THENCE S00°47'51"E along the easterly line of the Southwest Quarter of said Section 8 a distance of 2544.48 feet;
THENCE S89°35'07"W along the southerly line of the Southwest Quarter of said Section 8 a distance of 2640.55 feet;
THENCE N00°55'27"W along the westerly line of the Southwest Quarter of said Section 8 a distance of
2647.10 feet; 
THENCE S89°26'43"W along the southerly line of the Northeast Quarter of said Section 7 a distance of 2628.07 feet; 
THENCE S89°27'53"W along the southerly line of the Northwest Quarter of said Section 7 a distance of 686.12 feet; 
THENCE the following six (6) courses along the northerly and westerly lines of Parcel No. TK-11 LT REV-1 of the Northwest Parkway Public Highway Authority recorded at the City and County of Broomfield Clerk & Recorder's Office at Reception number 2004004470 on March 31, 2004
1. S73°35'25"W a distance of 970.91 feet; 
2. THENCE S72°05'25"W tangent with the following described curve a distance of 68.63 feet; 
3. THENCE along the arc of a curve to the left, having a central angle of 9°34'51", a radius of 3969.71 feet, a chord bearing S67°18'00"W a distance of 663.04 feet, and an arc distance of 663.81 feet; 
4. THENCE S62°30'34"W tangent with the last described curve a distance of 68.63 feet; 
5. THENCE S61°00'34"W a distance of 119.57 feet; 
6. THENCE N00°13'06"W along the westerly line of the Southwest Quarter of said Section 7 a distance of 624.31 feet to the POINT OF BEGINNING.

Containing 1,777.146 Gross Acres, more or less.

Less and Except:

Book 3517 Page 192 (City of Broomfield/Northwest Parkway) 91.445 Acres +- 

The following parcels conveyed to the Northwest Parkway Public Highway Authority under reception numbers 2001001080 and 2001001086:
TK-7-RT Rev 1 10.616 Ac+-
TK-7 & 8 RT 0.106 Ac+-
TK-8-RT Rev 1 0.490 Ac+-
TK-8 & 10-RT 1.327 Ac+-
TK 10-3-LT 1.636 Ac+-
TK-10 LT 1.771 Ac+-
TK-10-2-RT 0.016 Ac+-
Total Northwest Parkway Exceptions 15.98 Ac+-

BASIS OF BEARING

Bearings are based upon (2) Broomfield Colorado GPS Control (Modified State Plane - Colorado North Zone) - GIS LAND POSITION corners "Lucy" (found 3" brass disk set into 18" round concrete post stamped "CITY OF BROOMFIELD LUCY GPS NO. 15") and "GPS #4" (found 3 1/4" brass disk set into 18" round concrete post stamped "CITY OF BROOMFIELD 1995 GPS NO. 4" bearing being S50°56'38"W a distance of 9603.05 feet.

Prepared by:
Daniel G. Wolken PLS 38010
For and on behalf of
Jacobs Engineering Group
707 17th Street #2300
Denver, Colorado 80202
(303) 820-5240
## EXHIBIT B
Development Schedule

<table>
<thead>
<tr>
<th>STATUS</th>
<th>PHASE I DEVELOPER OBLIGATIONS</th>
<th>To be commenced during the development of the first 270 acres of residential property for single-family dwelling units</th>
</tr>
</thead>
<tbody>
<tr>
<td>COMPLETE</td>
<td>NORTHWEST PARKWAY/E-470</td>
<td>Upon City approval of the Preble Creek PUD and Growth Management and Development Agreement, Developer shall prepare and submit to City a final subdivision plat establishing right-of-way for the Northwest Parkway and E-470 from land owned by Developer pursuant to terms and conditions of agreements between Developer, the Northwest Parkway Highway Authority, and the E-470 Authority.</td>
</tr>
<tr>
<td>PARTIALLY</td>
<td>SCHOOL SITE #1</td>
<td>Developer has dedicated to the City a school site as shown on the Anthem PUDs. The school site shall be provided with utilities and roadway access improvements to the property line with delivery of the site upon completion of the subdivision plat improvements. Construction of the school building and site improvements shall be by others. If it is determined by the City or the School District that less acreage than is shown on the PUD is required for School Site #1, the remaining acreage shall be included in an adjacent school park. If it is determined that more acreage than is shown on the PUD is required for School Site #1, the additional acreage shall be taken from the adjacent school park and the adjacent park shall be reduced in size. The dedication of the school site and roadway access is completed, and the installation of utilities is partially complete and shall be completed contemporaneously with the development of Neighborhood #3 (future Filing No. 20). The adjacent school park shall be completed within two (2) years after the opening date of a school constructed on School Site #1.</td>
</tr>
<tr>
<td>COMPLETE</td>
<td>OPEN LAND/TRAIL SYSTEM</td>
<td>During Phase I, Developer shall plat Open Lands and Trail System of a minimum of twenty-five (25) acres. The Open Lands and Trail System may include a combination of native, enhanced native, landscaped and irrigated areas with trail systems to interconnect certain areas of development and the community. The landscaping and trail system improvements shall be completed within a period of two (2) years of commencement of construction of the subdivision plat improvements by Developer.</td>
</tr>
<tr>
<td>PARTIALLY</td>
<td>CITY/COUNTYWIDE PARK PH II</td>
<td>During Phase IA and IB, Developer shall plat a City/Countywide Park site together with constructing improvements in the areas detailed in the attached Exhibit C as Phase IA and IB. The specific improvements shall consist of those detailed in the Preble Creek Filing No. 2 Site Development Plan. Improvements called out on Exhibit C as “by others” shall not be the responsibility of the Developer. Phase IA is complete; Phase IB shall be completed no later than November 30, 2010.</td>
</tr>
<tr>
<td>COMPLETE</td>
<td>CITY/COUNTYWIDE PARK PH II and PH III</td>
<td>Developer shall construct improvements in the areas detailed in the attached Exhibit C as Phase II and Phase III. The specific improvements shall consist of those detailed in the Preble Creek Filing No. 2 Site Development Plan. Improvements called out on Exhibit C as “by others” shall not be the responsibility of the Developer. Phase II of the City/Countywide Park site and improvements shall be completed no later than November 30, 2012. Phase III of the City/Countywide Park Site and improvements shall be completed by the later of November 30, 2012 or that date that the improvements called out on Exhibit C as “by others” are completed.</td>
</tr>
<tr>
<td>NOT COMPLETE</td>
<td>OPEN LAND/TRAIL SYSTEM</td>
<td>Developer shall plat Open Lands and Trail System of up to one hundred fifty (150) acres. The Open Lands and Trail System may include a combination of native, enhanced native, landscaped and irrigated areas with trail systems to interconnect certain areas of development. The</td>
</tr>
</tbody>
</table>
**STATUS**

<table>
<thead>
<tr>
<th>PHASE III DEVELOPER OBLIGATIONS – To be completed prior to the issuance of the final 150 building permits within the approved final subdivision plats of the Anthem West PUD</th>
</tr>
</thead>
</table>

**COMPLETE**

<table>
<thead>
<tr>
<th>OPEN LAND/TRAIL SYSTEM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developer shall plat Open Lands and Trail System of up to twenty (20) acres. The Open Lands and Trail System may include a combination of native, enhanced native, landscaped and irrigated areas with trail systems to interconnect certain areas of development. The landscaping and trail system improvements shall be completed within a period of two (2) years of commencement of construction of the subdivision plat improvements by Developer.</td>
</tr>
</tbody>
</table>

NOTE: Prior to the City's issuance of the final 150 building permits within the approved final subdivision plats of the Anthem West PUD, the Developer shall complete all remaining Developer obligations for public and private open lands (parks and open space) and dedications specified in the Anthem West PUD Plan, all approved Site Development Plans and in accordance with Exhibits B and C of this Agreement.

**Developer Obligation Definitions:**

**School Sites:**
Developer has dedicated to the City a school site for the construction of a school facility by others. The acreage of the site may be adjusted as provided above in this Exhibit B, and shall have roadway access and shall be delivered with all required utilities (potable water, sewer, storm drainage, electrical, gas and telecommunications) delivered to the property line. All permit fees, licenses, access charges, etc. required for development of the facility shall be the responsibility of the City or others. The City may assign, sell or otherwise transfer the property to a qualified public school for purposes of constructing a school facility only. In the event that developing the site as a school is not practical or the site is too large, the site or balance of the site unused shall be developed as a neighborhood park by the City.

**Open Lands/Trail System:**
Developer shall plat open lands of the areas noted in Exhibit B and shall construct a trail system that includes both paved and unpaved trails for pedestrians and bicycles. Within the open land areas, landscaping may be native, supplemented native or fully landscaped and irrigated, or a combination thereof. Open lands may include accessory structures such as picnic areas, toilet facilities, site furnishings such as benches, picnic tables, waste receptacles, etc. and associated parking facilities.

**City/Countywide Park:**
Developer shall dedicate to the City a site and improvements for a community park in accordance with the approved Site Development Plan for Preble Creek Filing No. 2. The site shall be of the size indicated in approved Site Development Plan for Preble Creek Filing No. 2. The Developer shall construct improvements specified in the Site Development Plan for Preble Creek Filing No. 2 for the areas identified as Phases I, II and III and defined to be the responsibility of the Developer as set forth in Exhibits B and C. City shall be responsible for all maintenance and utility charges including phone, electrical, gas, etc. Notwithstanding anything to the contrary, Developer shall not be obligated to furnish City/Countywide Park improvements in excess of the requirements set forth in this Exhibit B.
RESOLUTION NO. 2009-47

A RESOLUTION APPROVING AN AGREEMENT BY AND BETWEEN THE CITY AND COUNTY OF BROOMFIELD AND THE PULTE HOME CORPORATION TO ESTABLISH GUIDELINES CONCERNING THE DEDICATION, OWNERSHIP, AND MAINTENANCE OF OPEN LANDS WITHIN THE ANTHEM – WEST PUD GENERALLY LOCATED SOUTH OF STATE HIGHWAY 7 AND WEST OF INTERSTATE 25

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. That the Agreement By and Between the City and County of Broomfield and the Pulte Home Corporation to Establish Guidelines Concerning the Dedication, Ownership, and Maintenance of Open Lands Within the Anthem West PUD as shown in the attached Exhibit 1 is hereby approved.

Section 2. This resolution is effective on the date of approval by the City Council.

APPROVED on March 10, 2009.

THE CITY AND COUNTY OF BROOMFIELD,
COLORADO

[Signature]
Mayor

[Signature]
City & City Clerk, Deputy

APPROVED AS TO FORM:

[Signature]
City & County Attorney
AGREEMENT
BY AND BETWEEN THE CITY AND COUNTY OF BROOMFIELD AND
PULTE HOME CORPORATION
TO ESTABLISH GUIDELINES CONCERNING THE DEDICATION, OWNERSHIP, AND
MAINTENANCE OF OPEN LANDS WITHIN THE ANTHEM WEST PUD

THIS AGREEMENT (“Agreement”) is entered into as of this 10th day of March, 2009, by and between the CITY AND COUNTY OF BROOMFIELD, a Colorado county and municipal corporation (the “City”), and PULTE HOME CORPORATION, a Michigan corporation (the “Developer”) (collectively, the City and Developer are referred to as the “Parties”).

The Parties are desirous of establishing a guideline for the dedication, ownership and maintenance of outlots, tracts, open space, parks, trails and similar areas within the Anthem West PUD that are platted as separate parcels of land in order to identify parcels that will be dedicated to the City for ownership and maintenance and parcels that will be owned and maintained by a homeowners association or governmental entity other than the City.

The Parties recognize that adopting a framework that serves to identify parcels for dedication during the land use review process will have the benefits of promoting better development planning, promoting better fiscal planning by allowing the Parties to more accurately forecast future maintenance costs, and allow for a more logical and integrated approach to allocating maintenance responsibilities among parcels within the Anthem West PUD.

The City and Developer have prepared a diagram representative of the Anthem West PUD which shows and labels the outlots, tracts, open lands and similar areas (the “Tracts”) that are currently platted or are anticipated to be platted in the future. The diagram includes a summary table of these parcels which identifies each Tract, its location, and identifies the person that is intended to own and maintain each of the Tracts. The diagram is titled “Anthem Ownership and Maintenance Diagram” a copy of which is attached hereto as Exhibit A and incorporated herein by this reference (the “Diagram”).

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Diagram. The City and Developer agree to use the Diagram as a reference document to help guide and inform the land use decision-making process when determining the ownership of and maintenance responsibilities for outlots, tracts, open space, parks, trails, right-of-way tree lawns, medians and similar areas shown on the Diagram. Specifically, without limitation, the Diagram shall be used as a guideline (i) when planning, reviewing or evaluating plats, site development plans, and planned unit development plans, (ii) in negotiating and preparing subdivision improvement agreements and other types of development agreements by and between the Parties, (iii) when evaluating Tracts to determine if they are suitable for dedication to the City, or for ownership by a homeowners association or a governmental entity other than the City, and (iv) as a basis for negotiating the exchange of parcels in circumstances where the current dedications, ownership and maintenance obligations are inconsistent with the Diagram. Once all
residential subdivisions within the Anthem West PUD have been initially platted in accordance with the applicable subdivision regulations of the City, the Parties agree that they will update the Diagram so that it accurately reflects all actual ownership and maintenance obligations with respect to the Tracts, whether established by recorded subdivision plat, development plan, agreement or instrument of record.

2. **Future Plats and Site Development Plans.** Developer agrees to consult the Diagram when preparing plats, site development plans, planned unit development plans and similar documents for submittal to the City. To the extent feasible and practicable, offers of dedication of lands to the City and other designations of ownership and maintenance obligations contained within such submittals are intended to generally conform to the ownership designations set forth on the Diagram. The City agrees to refer to the Diagram when considering and evaluating such dedications.

3. **Tract Specific Provisions.**

A. **Community Ditch.** The Community Ditch, which is operated by the Farmers Reservoir And Irrigation Company ("FRICO"), runs along the east boundary of the property and lies within various Tracts of land as shown of the Diagram. As a general guideline, when determining the ownership and maintenance responsibilities for such Tracts, the Parties intend that the City own and maintain the ditch right-of-way, as is illustrated on the Diagram.

B. **Welcome Lodge and Gate House Entry Feature.** The Parties intend that the Welcome Lodge located on that Tract identified as Item 19 on the Diagram will be owned and maintained by a separate private entity not affiliated with either the Developer or a homeowners association. The Gate House Entry Feature located in that Tract identified as Item 21 on the Diagram, will be owned and maintained by a homeowners association and used by the Broomfield Police Department subject to the License Agreement For Use Of Anthem Gatehouse, executed on June 24, 2008.

C. **Buffalo Sculptures.** A feature of the Anthem West residential development is the installation of certain public art consisting of large metal buffalo sculptures. These sculptures are movable and have been and are intended to be displayed adjacent to Highway 7 and/or Lowell Blvd. at various locations within those Tracts identified as but not limited to Items 18, 19A, 26, 27, 31 and 101 on the Diagram. The Parties intend that a homeowners association will own, maintain, repair and replace the buffalo sculptures.

D. **Ponds.** The parties intend that the City will own, maintain repair and replace the ponds located on Tracts 1, 3, 14, 18, 19A, 30, 48, 74, 88, 101, 120, 125, 147, 170 subject to the following maintenance services to be provided by a homeowners association: Water features (i.e. pumps, aeration systems, bacterial injection systems). The Developer for itself and its assigns, reserves the right to provide periodic algaecide treatments in addition to those provided by the City.

E. **Monumentation.** Community and neighborhood monumentation has been provided within the Anthem West residential development. The Parties intend that a homeowners association will own and maintain this monumentation located on Tracts identified on the Diagram.
as being owned and maintained by the City including those Tracts identified as but not limited to Items 26, 27, 31, 101, 120, 125, 130, 169, 170.

F. **General Maintenance.** The Parties acknowledge that the maintenance of landscaping by the City within City-owned and maintained Tracts within the Anthem West PUD, and the maintenance of Tracts that are intended to be maintained by a homeowners association shall be performed in accordance with the established City and County of Broomfield Contractual Landscape Maintenance Standards 2007. Maintenance of landscaping, monuments, sculptures, water features including pumps, aeration systems, bacterial injection systems and other improvements to be maintained by a homeowners association or entity other than the City within City-owned Tracts within the Anthem West PUD as indicated on Exhibit A will require the City to provide the Developer, homeowners association or other entity with a permit, license or an easement encompassing all of the said Tracts for access and maintenance purposes as required. Until a permit, license or an easement is granted by the City, or in the event the City revokes or terminates a permit, license or an easement that it has previously granted to the Developer, homeowner association or other entity, maintenance for said Tracts will be the responsibility of the City.

G. **Community Park on Tract 18/18A.** As building and landscape improvements constructed or installed by the Developer in the Community Park are satisfactorily completed, then upon written request of Developer, accompanied by documents required by the Broomfield Standards and Specifications, the City shall provide acceptance of such improvements in accordance with then-applicable procedures. Until final acceptance by the City Council, the Developer shall bear all risk of loss, damage or failure to any of the Improvements. Upon final acceptance, said improvements shall become public facilities and property of the City. Subject to the Developer’s warranty for repair and replacement as set forth in the Broomfield Standards and Specifications, if the City elects to place portions of the improvements and landscape into service when completed whether before or after acceptance, then the City shall be solely responsible for any maintenance, repairs or replacements and liability caused by or arising from events and uses of the Community Park grounds and facilities that are held or authorized by the City.

4. **No Usurpation.** The City and Developer agree that the Diagram and the provisions of this Agreement are intended to serve as a guideline only for the purpose of facilitating good land use planning, and that nothing in the Agreement shall be deemed to modify, change, rescind or abrogate in any manner the ordinances and adopted land use regulations of the City, or any of the rights or powers of the City, its boards and commissions.

5. **Term.** This Agreement shall commence upon the execution of this Agreement by both Parties hereto, and shall continue until December 31, 2014 ("Initial Term") unless earlier terminated by agreement of the Parties. If this Agreement is not otherwise terminated by the parties, it shall be renewed automatically for succeeding terms of one (1) year each.

6. **Additional Documents or Action.** The Parties agree to cooperate in good faith to implement the intent of this Agreement and to execute any additional documents or take any additional action that is deemed necessary by the Parties to facilitate such cooperation (provided, however, no party shall have any obligation to incur expenses in connection therewith).
7. **Integration and Amendment.** This Agreement represents the entire agreement between the Parties with regard to establishing the Diagram as a guideline as contemplated by this Agreement, and there are no oral or collateral agreements or understandings. This Agreement may be administratively amended only by an instrument in writing signed by the Parties, provided, however, the City Manager, on behalf of the City, is authorized to approve modifications and amendments to the Diagram at any time from time to time.

8. **Governing Law.** This Agreement shall be governed by the laws of the State of Colorado.

9. **Assignment.** The Developer shall be permitted to assign its interest in this Agreement in whole or in part to a developer who acquires all or a portion of the undeveloped property within The Anthem West PUD then owned by Developer and who agrees to then act as the successor developer of the undeveloped portions of the Anthem West PUD acquired by such developer; and the Developer shall be permitted to assign its interest in this Agreement in whole or in part to the Anthem Ranch Community Association, Inc., Colorado nonprofit corporation (“Anthem Ranch”), and/or the Anthem Highlands Community Association, Inc., Colorado nonprofit corporation (“Anthem Highlands”).

10. **Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

11. **No Third Party Beneficiaries.** This Agreement is intended to describe the rights and responsibilities only as to the Parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto.

12. **Financial Obligations of the City.** All financial obligations of the City under this Agreement, if any, are subject to appropriation, budgeting and availability of funds to discharge such obligations. Nothing in this agreement shall be deemed to pledge the City’s or the Developer’s credit or faith, directly or indirectly, to the other party.

   [signature page follows]
Executed by the Parties the day and year first above written.

City and County of Broomfield,
a Colorado municipal corporation

By: Mayer Patrick Quinn

Developer:

Pulte Home Corporation,
a Michigan corporation

By: 

6400 S. Fiddlers Green Circle, Suite 1320
Greenwood Village, CO 80111

APPROVED AS TO FORM

City & County Attorney
EXHIBIT A: ANTHEM OWNERSHIP AND MAINTENANCE DIAGRAM

OPEN LANDS PROPOSED MAINTENANCE SUMMARY

- **Open Lands**
- **Recommended Acres:**
  - **10.00 AC**
  - **10.00 AC**

OPEN LANDS PROPOSED DEDICATION SUMMARY

- **Open Lands**
- **Recommended Acres:**
  - **10.00 AC**
  - **10.00 AC**

**Notes:**
1. **The Diagram is intended to serve as a reference for the Owners and Owners Association with regard to the Dedications, Ownership, and Maintenance of Open Lands Agreement.**
2. **All areas in acres.**
3. **Tracts and tract areas listed as future filing are conceptual final tracts with full final plans. The proposed acreage shown under the Open Lands Maintenance Summary is a projection and will be finalized with SDP’s and final plats.**
4. **CCOB will provide a blanket maintenance easement to the HOA for all tracts that are designated to be owned by CCOB and maintained by the HOA. CCOB will provide maintenance for these tracts until the blanket maintenance easement is provided to the HOA.**
5. **Future neighborhoods may require slight adjustments to this diagram and may be amended from time to time through an administrative process.**

**Prepared by:**
- **Calibre Engineering Inc.**
- **Southlake, TX 76092**
- **March 4, 2009**
RESOLUTION NO. 2009-48

A RESOLUTION APPROVING AN AGREEMENT BY AND BETWEEN
THE CITY AND COUNTY OF BROOMFIELD AND PULTE HOME CORPORATION
FOR THE GRANT OF A REVOCABLE PERMIT TO USE AND OCCUPY
CITY OPEN LANDS AND PUBLIC RIGHTS-OF-WAY WITHIN THE
ANTHEM WEST DEVELOPMENT IN THE ANTHEM – WEST PUD PLAN APPROXIMATELY
LOCATED SOUTH OF STATE HIGHWAY 7 AND WEST OF INTERSTATE 25

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF
BROOMFIELD, COLORADO:

Section 1. Pursuant to the provisions of chapter 14-10 of the Broomfield Municipal Code,
the agreement by and between the City and County of Broomfield and Pulte Home
Corporation for the grant of a revocable permit to use and occupy city open lands and
public rights-of-way within the Anthem – West development is hereby approved as shown
in Exhibit 1.

Section 2. This resolution is effective on the date of approval by the City Council.

APPROVED on March 10, 2009.

THE CITY AND COUNTY OF BROOMFIELD,
COLORADO

[Signature]
Mayor

[Signature]
City & City Clerk

APPROVED AS TO FORM:

[Signature]
City & County Attorney
AN AGREEMENT BY AND BETWEEN THE CITY AND COUNTY OF BROOMFIELD AND PULTE HOME CORPORATION FOR THE GRANT OF A REVOCABLE PERMIT TO USE AND OCCUPY CITY OPEN LANDS AND PUBLIC RIGHTS-OF-WAY WITHIN THE ANTHEM WEST DEVELOPMENT

1.0 PARTIES. The parties to this Agreement are the City and County of Broomfield, a Colorado municipal corporation and body politic and corporate of the State of Colorado ("City"), and Pulte Home Corporation, a Michigan corporation ("Permittee").

2.0 RECITALS AND PURPOSE.

2.1 The City owns the open lands ("Open Lands") and public right-of-way ("Right-of-Way") within the Anthem West Development as defined by the Anthem West PUD, Reception No. 2006006926, recorded June 2, 2006 by City and County of Broomfield as may be amended ("Anthem West PUD").

2.2 The Permittee desires to receive a general revocable permit for the placement and maintenance of one or more of the following appurtenances within the Open Lands and Right-of-Way within the Anthem West PUD:

- Pulte Signage
- Directional Signage
- Anthem, Community and Neighborhood Signage
- Monumentation with Anthem Signage (i.e.: cairns, rock retaining walls, fin walls)
- Monumentation with Community & Neighborhood Signage (i.e.: cairns rock retaining walls, fin walls)
- Private Lighting
- Buffalo Sculptures
- Pond Water Features (i.e.: pumps, aeration systems, bacterial injection systems)

2.3 The City will grant a revocable permit to the Permittee under the terms and conditions as hereinafter specified in this Agreement.

3.0 TERMS AND CONDITIONS. FOR AND IN CONSIDERATION of the mutual covenants and promises contained herein, the sufficiency of which is acknowledged, the parties agree as follows:

3.1 The City hereby grants to the Permittee a revocable permit for the installation and maintenance of the items listed in Paragraph 2.2 on Open Lands and Right of Way within the Anthem West PUD.

3.2 The use and occupancy described in paragraph 3.1 above shall continue from the date of this Agreement to the time that this Agreement is terminated. The City may terminate this Agreement at any time by giving
written notice to the Permittee ten days in advance of the effective date of termination and specifying the date of termination therein.

3.3 The Permittee expressly agrees to indemnify and hold harmless the City and any of its officers or employees from any and all claims, damages, liability, or court awards, including costs and attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone, including but not limited to, any person, firm, partnership, or corporation, franchisee, in connection with or arising out of any omission or act of commission by Permittee or any of its employees or agents in using and occupying the Open Lands or Right-of-Way.

3.4 The Permittee agrees that he will never institute any action or suit at law or in equity against the City or any of its officers or employees, nor institute, prosecute, or in any way aid in the institution or prosecution of any claim, demand, or compensation for or on account of any damages, loss, or injury either to person or property, or both, known or unknown, past, present or future, arising from the revocable permit granted to Permittee in paragraph 3.1 above.

3.5 The Permittee agrees to construct, maintain, and repair any structures or improvements listed in Paragraph 2.2 that are located in Open Lands or Right-of-Way at the expense of the Permittee.

3.6 The Permittee agrees that the City is not and will not assume any liability, responsibility, or costs for any damage or maintenance to any structures or improvements erected by the Permittee under this Agreement.

3.7 This Agreement is subject to the provisions of section 17.9 of the Charter for the City of Broomfield.

4.0 ASSIGNMENT. This Agreement allows for Permittee to assign its interest in this Agreement in whole or in part to the Anthem Ranch Community Association, Inc., Colorado nonprofit corporation and/or Anthem Highlands Community Association, Inc., Colorado nonprofit corporation; collectively referred to as the (“Community Associations”).

5.0 NOTICES. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if personally served or if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other party or parties. Such notice shall be deemed to have been given when deposited in the United States Mail.

6.0 INTEGRATION AND AMENDMENT. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing.
signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

7.0 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Colorado.

8.0 WAIVER OF BREACH. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be constructed as a waiver of any subsequent breach by either party.

9.0 BINDING EFFECT. This Agreement shall inure to the benefit of, and be binding upon, the parties, their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

10.0 EXHIBITS. All exhibits referred to in this Agreement are by reference incorporated herein for all purposes.

11.0 PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

12.0 ADDITIONAL DOCUMENTS OR ACTION. The parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

13.0 NO THIRD PARTY BENEFICIARIES. This Agreement is intended to describe the rights and responsibilities only as to the parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto.

14.0 NO PRESUMPTION. The parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the party causing the Agreement to be drafted.

15.0 EXECUTION IN COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.
IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto in their respective names as of March 10, 2009

THE CITY AND COUNTY OF BROOMFIELD, a Colorado municipal corporation & body politic and corporate of the State of Colorado

Patrick Quinn, Mayor

APPROVED AS TO FORM:

WILLIAM A. TURLEY
City & County Attorney

PERMITTEE:
Pulte Home Corporation, a Michigan corporation

By: ______________________

Its: VP of Land

6400 S. Fiddlers Green Circle, Suite 1320
Greenwood Village, CO 80111

The foregoing instrument was acknowledged before me this 17th of March 2009 by Todd Levert.

Witness my hand and official seal.

JOSEPH HOLLOWAY
Notary Public
State of Colorado

My Commission Expires: 1/27/2013

Anthem West – Revocable Permit